MONTANA LEGISLATIVE HISTORY

Chapter 465 19 77

Bill H _____ S 203 Original bill & history ✓ C

H. Committee on Fish & Game

Hearing Date(s) 3-10 ___C
3-17 ___C
_____ ___C
_____ ___C

Date Out 3-17 ___C

S. Committee on Fish & Game

Hearing Date(s) 2-14 ___C
2-16 ___C
2-18 ___C
_____ ___C

DATE OUT 2-18

Did this bill originate in an interim committee? ___Yes ___No

Committee _____ Report _____

House Floor

3-17 Stand. Comm. rpt w/ amend.
3-19 2nd Reading - be concurred
3-23 3rd Reading - vote

Senate Floor

2-21 Stand. Comm. rpt w/ Amend.
2-24 2nd Reading
2-25 3rd Reading

3-25 2nd Read. - House Amend unanimously passed
3-26 2nd Read. - H. amend. unanimously not concurred
3-26 FCC be appointed
3-28 FCC appointed Senate
3-30 " " House
4-6 FCC rpt out
4-8 2nd read. vote
4-9 3rd read vote
4-11 2nd read Compiled 2-8-16
4-12 3rd read. By MP adopted

Senate BILL NO. 203

INTRODUCED BY Doohle

A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE THE PENALTIES FOR FISH AND GAME VIOLATIONS; AMENDING SECTIONS 26-315, 26-319, 26-324, 26-812, 26-1211, AND 95-2206, R.C.M. 1947; AND CREATING A POINT SYSTEM FOR LICENSE REVOCATION.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 26-324, R.C.M. 1947, is amended to read as follows:

"26-324. ~~Penalty~~ Penalties. (1) A person violating any provision of Title 26, any other state law pertaining to fish and game ~~thereto~~, or the orders, or rules, ~~and regulations~~ of the commission is, unless a different punishment is expressly provided by law for the violation, guilty of a misdemeanor and shall be fined not less than ~~twenty-five dollars ($25) nor~~ $50 or more than ~~five hundred dollars, ($500)~~, ~~or~~ imprisoned in the county jail for not less than 2 days or more than ~~six (6)~~ months, or both ~~fined and imprisoned~~. In addition, the person shall, ~~in the discretion of the court, forfeit~~ be subject to forfeiture of his license and privilege to hunt, fish, or trap within this state ~~for a period of sixteen (16) months from the date of conviction~~ according to the point system in [sections 7 and 8 of this act].

(2) (a) A person convicted of unlawfully taking, killing, possessing, transporting, or wasting of a bighorn sheep, moose, or grizzly bear or any part of these animals shall be fined not less than $500 or more than $1,000, imprisoned in the county jail for not less than 5 days or more than 6 months, or both. In addition, that person shall forfeit any current hunting, fishing, or trapping license issued by this state and the privilege to hunt, fish, or trap in this state for 24 months.

(b) A person convicted of unlawfully taking, killing, possessing, transporting, or wasting of a deer, antelope, wild buffalo, caribou, mountain goat, elk, mountain lion, or black bear or any part of these animals shall be fined not less than $300 or more than $1,000, imprisoned in the county jail for not less than 5 days or more than 6 months, or both. In addition, that person shall forfeit any current hunting, fishing, or trapping license issued by this state and the privilege to hunt, fish, or trap in this state for 16 months.

(c) A person convicted of unlawfully attempting to trap, take, shoot, or kill a game animal shall be fined not less than $200 or more than $600, imprisoned in the county jail for not less than 2 days or more than 60 days, or both.

(d) A person convicted of hunting, fishing or trapping

while his license is forfeited or his privilege denied shall be imprisoned in the county jail for not less than 5 days or more than 6 months. In addition that person may be fined not less than $500 or more than $1,000.

(3) No fine or penalty established in this section may be suspended, deferred, or reduced.

(4) When a person is convicted of a violation of any provision of Title 26, any other state law pertaining to fish and game, or any order or rule of the commission, the clerk of court shall send notice, within 10 days of the action to the commission."

Section 2. Section 95-2206, R.C.M. 1947, is amended to read as follows:

"95-2206. Sentence. Whenever any person has been found guilty of a crime or offense upon a verdict or a plea of guilty the court may:

(1) Defer imposition of sentence for a period not to exceed ~~one (1)~~ year for any misdemeanor, except as provided in 26-324, and for a period not to exceed ~~three (3)~~ years for any felony. The sentencing judge may impose upon the defendant any reasonable restrictions or conditions during the period of ~~the~~ deferred imposition. Such reasonable restrictions or conditions may include:

(a) jail base release;

(b) jail time not to exceed ~~ninety (90)~~ days;

(c) conditions for probation;

(d) restitution;

(e) any other reasonable conditions deemed necessary for rehabilitation or for the protection of society;

(f) any combination of the above.

(2) Suspend execution of sentence up to the maximum sentence allowed for the particular offense, except as provided in 26-324. The sentencing judge may impose on the defendant any reasonable restrictions during the period of suspended sentence. Such reasonable restrictions may include:

(a) jail base release;

(b) jail time not to exceed ~~(90)~~ days;

(c) conditions for probation;

(d) restitution;

(e) any other reasonable conditions deemed necessary for rehabilitation or for the protection of society;

(f) any combination of the above.

If any restrictions or conditions are violated, any elapsed time, except jail time, shall not be a credit against the sentence, unless the court shall otherwise order.

(3) Impose a fine as provided by law for the offense.

(4) Commit the defendant to a correctional institution with or without fine by law for the offense.

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(5) Impose any combination of subsections (2), (3), or (4) above.

(6) The district court may also impose any of the following restrictions or conditions on the above sentence which it deems necessary to obtain the objective of rehabilitation and the protection of society:

(a) prohibit the defendant the right to hold public office;

(b) prohibit the defendant the right to own or carry a dangerous weapon;

(c) prohibit freedom of association;

(d) prohibit freedom of movement;

(e) any other limitation reasonably related to the objectives of rehabilitation or the protection of society.

(7) The judge in the justice court shall not have the authority to restrict an individual's rights as enumerated in subsection (6).

Any judge who has suspended the execution of a sentence or deferred the imposition of a sentence of imprisonment under this section, or his successor, is authorized thereafter, in his discretion, during the period of such suspended sentence or deferred imposition of sentence to revoke such suspension or impose sentence and order such person committed, or may, in his discretion, order the prisoner placed under the jurisdiction of the state board of

pardons as provided by law, or retain such jurisdiction with this court. Prior to the revocation of an order suspending or deferring the imposition of sentence, the person affected shall be given a hearing."

Section 3. Section 26-315, R.C.M. 1947, is amended to read as follows:

"26-315. Taking deer within boundaries of cities or towns unlawful — penalty. It ~~shall be~~ is unlawful to shoot, kill, take, or cause to be shot, killed, taken or captured, or to attempt to shoot, kill, take or capture, any deer within the boundaries of any incorporated or unincorporated city or town of this state.

~~Any person violating the provisions of this act shall be guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not less than twenty-five dollars ($25) nor more than five hundred dollars ($500), or by imprisonment in the county jail for a period of not less than ten (10) days nor more than one hundred and eighty (180) days, or by both such fine and imprisonment, and in addition thereto shall forfeit his fish and game license for a period of one (1) year.~~"

Section 4. Section 26-319, R.C.M. 1947, is amended to read as follows:

"26-319. Penalty for violating closed season on certain game birds — power of commission to open season. It

~~shall hereafter~~ is be unlawful for any person to hunt, shoot, kill, capture, possess, or cause to be hunted, killed, or captured or ~~attempts~~ attempt to shoot, kill, or capture any quail, Chinese or Mongolian pheasants, commonly called ringneck pheasants, Hungarian partridge, chukar partridge, sage grouse, sharptailed grouse, blue grouse, fool hen, prairie chicken, ruffed grouse, ptarmigan, or wild turkey until such time as the commission shall provide an open season on any quail, Chinese or Mongolian pheasants, commonly called ringneck pheasant, Hungarian partridge, chukar partridge, sage grouse, sharptailed grouse, blue grouse, fool hen, prairie chicken, ruffed grouse, ptarmigan, or wild turkey.

~~Any person violating any of the provisions of this act or any person who has in his possession any of such birds or any part of any such birds, shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not less than fifty dollars ($50.00), nor more than two hundred fifty dollars ($250.00), or by imprisonment in the county jail for not more than sixty (60) days, or by [both] such fine and imprisonment.~~"

Section 5. Section 26-812, R.C.M. 1947, is amended to read as follows:

"26-812. Forfeiture of license or permit for littering ~~activity during suspension as misdemeanor~~. Any

holder of a Montana resident or nonresident fishing or hunting license, or camping permit convicted of littering campgrounds, public or private lands, streams, or lakes while hunting, fishing, or camping shall forfeit his license and privilege to hunt, fish, camp, or trap within Montana for a period of ~~one (1)~~ year from the date of conviction. ~~Any person who hunts, fishes, camps or traps in Montana while such license and privilege are suspended is guilty of a misdemeanor.~~"

Section 6. Section 26-1211, R.C.M. 1947, is amended to read as follows:

"26-1211. Enforcement — penalty — confiscation or disposal of illegally kept animals — appeal. (1) The provisions of this act shall be enforced by any ~~state fish and game~~ warden or any other legally authorized officer. ~~Any person violating the provisions of this act shall, upon conviction, be punished by a fine of not more than two hundred fifty dollars ($250.00), imprisonment for a period of not more than ten (10) days, or both, and at the discretion of the court the permit and all rights and privileges inherent therein may be forfeited.~~ Upon conviction for a violation of 26-1205 through 26-1212, the permit required by 26-1205 through 26-1212 is revoked and the privilege to purchase a permit is suspended for 16 months.

(2) Any animals being kept in violation of any section of this act may be confiscated or ordered disposed of at the discretion of the ~~state fish and game~~ director. The permittee may appeal to the commission within ~~twenty (20)~~ days of the date of the order to confiscate and the commission shall hold a hearing on such an appeal and the decision of the commission shall be final."

Section 7. There is a new R.C.M. section that reads as follows:

Cancellation and suspension of license and privileges. (1) For purposes of this section and [sections 8, 9, and 10 of this act], the term "license" means any license, certificate, stamp, card, or permit issued by the department except outfitters', guides', and taxidermists' licenses, the cancellation and suspension of which is provided for in 26-919 and 26-920.

(2) The commission shall revoke a license and suspend, for a period of 16 months, the privilege of purchasing any license and the benefits, rights, and privileges conferred by any license if the holder:

(a) has been convicted of causing a forest fire;

(b) has been convicted of fraudulent purchase of any license;

(c) has caused the death of another person, though not in a criminal manner, while hunting;

(d) has illegally taken a deer within the boundaries of a city or town as prohibited in 26-315; or

(e) has been convicted of violations of the fish and game laws of any state so as to have accumulated 18 or more points within any consecutive 5-year period, as indicated in the table set forth in [section 8].

Section 8. There is a new R.C.M. section that reads as follows:

Point system. For the purpose of suspending a license as provided in [section 7], points shall be assessed as follows:

(1) hunting, fishing, or trapping without a proper and valid license ..... 10 points

(2) false statement made in connection with the purchase of any license issued under this title .. 18 points

(3) hunting migratory waterfowl without a valid federal duck stamp in possession ..... 6 points

(4) illegal transfer, sale, gift, loan, or assignment of any license issued under this title ..... 6 points

(5) alteration of any license issued under this title ..... 18 points

(6) shooting from, upon, or across a public road .... 10 points

(7) hunting or fishing in a closed or improper area .. .. 6 points

(8) hunting, fishing, or trapping on private property without permission of the owner ..... 3 points

(9) hunting before or after hours ..... 3 points

(10) use of an aircraft or a motor vehicle to take, kill, capture, wound, injure, or harass wildlife . 18 points

(11) fishing with an unattended rod ..... 3 points

(12) fishing with more than one rod ..... 3 points

(13) hunting with an illegal weapon or unlawful method of hunting ..... 4 points

(14) use of unlawful devices in hunting small game or in fishing ..... 10 points

(15) use of unlawful devices in hunting big game .... 18 points

(16) illegal possession of big game ..... 12 points

(17) illegal possession of small game or fish .... 10 points

(18) Failure to tag big game ..... 8 points

(19) failure to have evidence of sex accompanied with wildlife, when necessary ..... 6 points

(20) waste of fish on which a bag or possession limit has been set by the commission ..... 6 points

(21) waste of game meat ..... 10 points

(22) hunting during a closed season ..... 6 points

(23) refusing to produce a license or permit for inspection ..... 10 points

(24) failure to wear hunter orange garments when required by law ..... 10 points

(25) failure to stop at a check station ..... 10 points

(26) building a fire in a prohibited area .... 8 points

(27) illegal possession of bald or golden eagle .... 12 points

(28) illegal possession of raptors other than a bald or golden eagle ..... 10 points

(29) illegal possession of wildlife listed as endangered ..... 18 points

(30) failure to notify department of acquisition, loss, death, release, or transfer of raptor ..... 6 points

(31) transporting a raptor out of the state without a valid permit ..... 10 points

(32) acting as an outfitter or guide without a proper and valid license under 26-916 ..... 18 points

Section 9. There is a new R.C.M. section that reads as follows:

Multiple violations — notice to license agents — renewal. (1) For more than one violation of any offense set forth in [section 8], the commission, in its discretion, shall:

(a) for a second offense, assess twice the number of points listed for the violation;

(b) for a third or subsequent offense, assess 4 times

the number of points listed for the offense.

(2) A suspension of privilege under [section 7] shall be for a period not to exceed 3 years, and any person whose privilege to purchase any license has been suspended is not entitled to purchase any license issued by the department and may not apply for a renewal, reissue duplicate, or new license until the suspension has expired.

(3) Upon suspension, the commission shall give notice of the suspension to the person whose privilege has been suspended by registered or certified mail addressed to the last known address of such person and shall further give written notice to those individuals designated by the commission to act as license agents of the fact of such suspension and the identity of the person whose privilege has been suspended.

(4) If any person whose license has been cancelled or whose privilege to purchase any license has been suspended as provided in [section 7] is convicted of exercising or attempting to exercise the benefits conferred by the license during the period of cancellation or suspension, the commission shall renew or extend the period of cancellation or suspension for an additional period of 3 years from the date of conviction.

(5) For the purposes of license or privilege revocation or suspension, the payment of a penalty

assessment under 26-324 is a conviction of the offense for which the penalty assessment was paid.

Section 10. There is a new R.C.M. section that reads as follows:

Appeal of revocation or suspension of license or privileges. A person whose license or privilege is suspended or revoked may appeal to the district court of the county in which he resides or of Lewis and Clark County for relief.

-End-

STATE OF MONTANA

REQUEST NO. 455-77

FISCAL NOTE

Form BD-15

In compliance with a written request received February 9, 19 77, there is hereby submitted a Fiscal Note for Senate Bill 203 pursuant to Chapter 53, Laws of Montana, 1965 - Thirty-Ninth Legislative Assembly. Background information used in developing this Fiscal Note is available from the Office of Budget and Program Planning, to members of the Legislature upon request.

DESCRIPTION OF PROPOSED LEGISLATION:

Senate Bill 203 generally revises the fines and penalties for various fish and game violations, and creates a violation point system for the purpose of cancellation and suspension of fish and game license privileges.

ASSUMPTIONS:

1. Some dollar estimates can reasonably be made on the various standard minimum fines for certain violations, such as computing a $25 assessment to a proposed minimum fine of $50. However, it is much more difficult to determine the fiscal impact of the proposed fine structure which is based upon specific game species. For this reason, no dollar estimate could be made on certain proposed hunting violations.
2. A small allowance is made for an annual increase in fine collections.
3. To implement the proposed legislation, it is assumed that the Department will require one additional FTE – Clerk, Statistical II; and possibly two additional days of Commission expenses to review suspension cases.
4. It is also assumed that courts will deduct from the fine revenues $7.50 per case to cover court administrative expense.

FISCAL IMPACT:

	FY 78	FY 79
Fish and Game fine collections under proposed law	$148,400	$151,000
Fish and Game fine collections under current law	123,000	125,000
Increase in fine collections	25,400	26,000
Less additional expenditures under proposed law	10,674	10,878
Net increase in revenues due to proposed legislation	$ 14,726	$ 15,122

Richard L. Strong for

BUDGET DIRECTOR

Office of Budget and Program Planning

Date: 2-17-77

MINUTES

FISH AND GAME COMMITTEE

MONTANA STATE SENATE

February 14, 1977

The meeting of the Fish and Game Committee was called to order by Chairman Frank Dunkle, at 8:00 A.M., in Room 405 of the State Capitol Building.

ROLL CALL: All members were present.

CONSIDERATION OF S. B. 242. Senator Manley was asked to speak regarding this bill. One of the features is that if someone who is being guided commits a violation and it is not reported by the guide, he is to be made responsible as though he were the violator. Neil Lynch, representing the outfitters and guides said he had drawn up this legislation and that it is patterned after the Executive Reorganization plan.

Ralph Holman, representing Montana Outfitters & Guides Assoc., read Exhibits A and B attached. Tag Rittel, Montana Outfitters & Guides, commented on his support for the bill. Bob Grick, High Country Outfitters, also supports the bill.

Mr. Orville Lewis from the Fish & Game Commission commented that his department had not taken any position on this bill, but before amendments are made would have questions.

There were questions asked regarding the penalties and what changes to be made. Suggestions were made by Senator Lowe, Senator Linsink and questions asked of Mr. Lewis regarding enforcement of the laws regarding residents and nonresidents. Mr. Lewis said that of course it is more difficult to prosecute the nonresident because of not being able to find them. The question was asked as to what is a resident guide?

Senator Dunkle asked Mr. Lynch whether this seems to appear that a resident does not need a guide. Discussion regarding this.

Senator Dunkle asked Mr. Lynch whether there is a repealer and Mr. Lynch replied that there is none.

Senator Manley suggested that there are several amendments that are going to have to be worked out. He said that he understands there is usually some problem over in the Pintlar Area near Anaconda. He felt that there should be problems solved that would create a better relationship between the landowner and the hunter.

CONSIDERATION OF SJR 25: This was delayed in an attempt to locate Senator Boylan, sponsor of the bill.

CONSIDERATION OF S. B. 203: Senator Dunkle stated that although he is sponsor of the bill, he has asked that Bill Thomas of Great FAlls explain what it does. Mr. Thomas said that people in Great Falls and Polson had helped with this and deals with laws and regulations regarding fines, etc. Testimony attached. Mr. Orville Lewis urged support

of this bill. Senator Lowe asked about raising of fines and feels this is the thing to do and that there is not enough enforcement. Mr. Lewis said that there are 65 game wardens plus supervisor personnel. Senator Galt asked where do the fines go and Mr. Lewis said it is earmarked, some to the county, etc. Senator Dunkle closed the hearing on this bill, asking that Mr. Lewis think about amendments.

CONSIDERATION OF SJR 25: In the absence of Senator Boylan, who is the sponsor, Senator Lensink was asked to present this Resolution.

Senator Lensink moved it do pass, seconded by Senator Galt and unanimously adopted.

Senator Dunkle announced that for the meeting on Wednesday all those bills that have not been acted on will be heard on that day.

Adjournment at 9:15 A.M.

FRANK DUNKLE, CHAIRMAN

ROLL CALL

FISH AND GAME COMMITTEE

45th LEGISLATIVE SESSION - - 1977 Date 2-14

NAME	PRESENT	ABSENT	EXCUSED
DUNKLE, Frank, Chairman	✓		
WARDEN, Margaret, V. C.	✓		
GALT, Jack	✓		
LENSINK, Everett	✓		
LOWE, Bill	✓		
MANLEY, John	✓		
SMITH, Richard	✓		
BERGREN, Russell	✓		

Each day attach to minutes

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MINUTES

FISH AND GAME COMMITTEE

MONTANA STATE SENATE

February 16, 1977

The fifteenth meeting of the Fish and Game Committee was called to order by Chairman Frank Dunkle at 8:00 A.M., in Room 405 of the State Capitol Building.

ROLL CALL: All members were present, with the exception of Senator Lensink, who was excused, and Senator Warden, who had to attend another meeting and would join the committee as soon as possible.

DISPOSITION OF SB 342, an act to provide for a nonresident coyote-fox trapper's license.

Senator Lowe made a motion that SB 342 DO NOT PASS. The motion was seconded by Senator Galt and carried unanimously.

DISPOSITION OF SB 151, an act to revise fish and game statutes relating to hunting and fishing licenses by clarification of existing statutes, simplification of the license structure, inclusion and modification of certain definitions, and establishment of administrative fees, without modifying existing licenses or fees.

Senator Smith made a motion that SB 151 DO NOT PASS. The motion was seconded by Senator Bergren and carried unanimously.

Senator Dunkle announced that Senators Lensink and Warden had left instructions with him to cast their votes DO NOT PASS. This was on both SB 342 and SB 151.

CONSIDERATION OF SB 173, an act to require that at least one-half of the annual expenditures for fish and game acquisitions be used to purchase the development rights of productive agricultural lands acquired for game management areas.

Senator Jergeson, Chief Sponsor of the bill, went through the proposed amendments. (Attachment #1).

Senator Smith made a motion to adopt the proposed amendments. Senator Lowe seconded the motion and it carried unanimously.

DISPOSITION OF SB 173: Senator Lowe made a motion that SB 173, DO PASS, AS AMENDED. The motion was seconded by Senator Smith, and passed unanimously.

CONSIDERATION OF SB 177, an act for the general revision of laws relating to snowmobiles, adding authorization for nonresident temporary-use permits.

Senator Dunkle presented a proposed amendment to the bill. (See attached Standing Committee Report).

Senator Smith made a motion to adopt the amendment. Senator Galt seconded the motion, and it passed unanimously.

DISPOSITION OF SB 177: Senator Smith made a motion that SB 177 DO PASS, AS AMENDED. Senator Lowe seconded the motion, and it passed unanimously.

CONSIDERATION OF SB 203, an act to generally revise the penalties for fish and game violations and create a point system for license revocation.

Chairman Dunkle mentioned that Mr. William F. Thomas and his Great Falls High School Ecology Class put this bill together. He made a motion that the committee send them a letter of commendation, along with a copy of the bill, and its amendments. The motion was seconded by Senator Lensink, and carried unanimously.

CONSIDERATION OF SB 242, an act to establish guide requirements for nonresident big or trophy game hunters in the State of Montana.

Mr. Ralph Holman, Legislative Chairman of the Montana Outfitters and Guides Association, testified. He said the bill, if passed, would only authorize the Fish and Game Commission to establish regulations which are just and which would require guide accompaniment under certain conditions and in certain hunting districts. He also felt the law is constitutional and not subject to challenge. (Attachment #2).

Senator Lowe made a motion to adopt the amendments and Senator Bergren seconded it. It pass unanimously.

DISPOSITION OF SB 242: Senator Bergren made a motion that SB 242 DO PASS, AS AMENDED. Senator Lowe seconded the motion, and it passed unanimously.

ANNOUNCEMENTS: Chairman Dunkle announced that all of the Senate bills are taken care of except SB 203, which will be considered at the committee's next meeting, when Debbie Schmidt has prepared the proposed amendments.

ADJOURNMENT: The meeting was adjourned by Chairman Dunkle at 9:20 A.M.

Frank Dunkle
FRANK DUNKLE, CHAIRMAN

ROLL CALL

FISH AND GAME COMMITTEE

45th LEGISLATIVE SESSION - - 1977 Date 1-14-77

NAME	PRESENT	ABSENT	EXCUSED
DUNKLE, Frank, Chairman	✓		
WARDEN, Margaret, V. C.			
GALT, Jack	✓		
LENSINK, Everett			
LOWE, Bill	✓		
MANLEY, John			
SMITH, Richard	✓		
BERGREN, Russell	✓		

MINUTES

FISH AND GAME COMMITTEE

MONTANA STATE SENATE

February 18, 1977

The sixteenth meeting of the Fish and Game Committee was called to order by Chairman Dunkle at 8:00 A.M., in Room 405 of the State Capitol Building.

ROLL CALL: All members were present with the exception of Senators Warden and Manley, who were excused.

DISCUSSION OF SB 203, an act to generally revise the penalties for fish and game violations, and creating a point system for license revocation.

Debbie Schmidt, Legislative Researcher, went through the proposed amendments. (Attachment #1).

Mr. Orville Lewis, Chief of the Law Enforcement Division of the Montana Fish and Game Department, said he felt this bill would give judges more latitude.

Chairman Dunkle asked the committee if there were questions.

Senator Smith felt that on page 2, line 4 of the bill, the word "buffalo" should be changed to "bison."

Senator Smith made a motion that the proposed amendments, including his own, be adopted. The motion was seconded by Senator Lensink and carried unanimously..

DISPOSITION OF SB 203: Senator Lowe made a motion that SB 203 DO PASS, AS AMENDED. The motion was seconded by Senator Bergren, and passed unanimously.

ANNOUNCEMENTS: Chairman Dunkle stated that all Senate bills were now out of committee.

ADJOURNMENT: The meeting was adjourned by Chairman Dunkle at 8:50 A.M.

Frank Dunkle

SENATOR FRANK DUNKLE, CHAIRMAN

ROLL CALL

FISH AND GAME COMMITTEE

45th LEGISLATIVE SESSION - - 1977 Date 2-18 77

NAME	PRESENT	ABSENT	EXCUSED
DUNKLE, Frank, Chairman	✓		
WARDEN, Margaret, V. C.			–
GALT, Jack	✓		
LENSINK, Everett	✓		
LOWE, Bill	✓		
MANLEY, John			–
SMITH, Richard	✓	–	
BERGREN, Russell	✓		

Attachment #1

PROPOSED AMENDMENTS TO SENATE BILL NO. 203

1. Amend page 1, title, line 6.
Following: "26-812,"
Insert: "and"
Following: "26-1211,"
Strike: "and 95-2206,"

2. Amend page 1, title, line 7.
Following: "1947"
Strike: "; and creating a point system for license revocation"

3. Amend page 1, section 1, line 20.
Following: line 19
Strike: "less than 2 days or"

4. Amend page 1, section 1, line 25.
Following: "~~conviction~~"
Strike: "according to the point system in [sections 7 and 9 of this act]"
Insert: "for a period of 16 months from the date of conviction"

5. Amend page 2, section 1, line 4.
Following: "moose,"
Insert: "wild buffalo, caribou, mountain goat,"

6. Amend page 2, section 1, line 6.
Following: "not"
Strike: "less than 5 days or"

7. Amend page 2, section 1, line 10.
Following: "months"
Insert: "from the date of conviction"

8. Amend page 2, sec tion 1, line 13.
Following: line 12
Strike: "wild buffalo, caribou, mountain goat,"

9. Amend page 2, section 1, line 16.
Following: "not"
Strike: "less than 5 days or"

10. Amend page 2, section 1, line 20.
Following: "months"
Insert: "from the date of conviction"

11. Amend page 2, section 1, line 24.
Following: "not"
Strike: "less than 2 days or"

PROPOSED AMENDMENTS TO SENATE BILL NO. 203

12. Amend page 2, section 1, line 25.
Following: line 24
Insert: "(d) A person convicted of unlawfully taking, killing, possessing, transporting, shipping, labeling, packaging, or wasting or unlawfully attempting to take, kill, or possess any game bird, wild turkey, fish, or fur-bearing animal or any part of any sucy animal or fish or of failure to tag a game animal or game bird as prescribed by law shall be fined not less than $50 or more than $200 or imprisoned in the county jail for not more than 30 days, or both."
Renumber: subsequent subsection

13. Amend page 3, section 1, line 5.
Following: line 4
Strike: lines 5 through 11 in their entirety.

14. Amend page 3, section 2, line 12.
Following: line 11
Strike: Section 2 in its entirety.
Renumber: subsequent sections

15. Amend page 8, section 6, line 15.
Following: "officer."
Insert: "Any person violating the provisions of this act shall, upon conviction, be punished as provided in 26-324, and at the discretion of the court the permit and all rights and privileges inherent therein may be forfeited."

16. Amend page 8, section 6, line 21.
Following: "~~forfeited~~."
Strike: the remainder of line 21 and lines 22 through 25 in their entirety.

17. Amend page 9, section 7, line 8.
Following: line 7
Strike: sections 7, 8, 9, and 10 in their entirety.

STANDING COMMITTEE REPORT

February 18, 19 77

MR. PRESIDENT

We, your committee on FISH AND GAME

having had under consideration SENATE Bill No. 203

Respectfully report as follows: That SENATE Bill No. 203,

Introduced bill, be amended as follows:

1. Amend title, line 6.
Following: "26-812,"
Insert: "and"
Following: "26-1211,"
Strike: "and 95-2206,"

2. Amend title, line 7.
Following: "1947"
Strike: "; and creating a point system for license revocation"

3. Amend page 1, section 1, line 20.
Following: line 19
Strike: "less than 2 days or"

4. Amend page 1, section 1, line 25 and line 1 on page 2.
Following: "conviction"
Strike: "according to the point system in (sections 7 and 9 of this act)"
Insert: "for a period of 16 months from the date of conviction"

Chairman.

STATE PUB. CO.
Helena, Mont.

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5. Amend page 2, section 1, line 4.
Following: "moose,"
Insert: "wild bison, caribou, mountain goat,"

6. Amend page 2, section 1, line 6.
Following: "not"
Strike: "less than 5 days or"

7. Amend page 2, section 1, line 10.
Following: "months"
Insert: "from the date of conviction"

8. Amend page 2, section 1, line 13.
Following: line 12
Strike: "wild buffalo, caribou, mountain goat,"

9. Amend page 2, section 1, line 16.
Following: "not"
Strike: "less than 5 days or"

10. Amend page 2, section 1, line 20.
Following: "months"
Insert: "from the date of conviction"

11. Amend page 2, section 1, line 24.
Following: "not"
Strike: "less than 2 days or"

12. Amend page 2, section 1, line 25.
Following: line 24
Insert: "(d) A person convicted of unlawfully taking, killing, possessing, transporting, shipping, labeling, packaging, or wasting or unlawfully attempting to take, kill, or possess any game bird, wild turkey, fish, or fur-bearing animal or any part of any such animal or fish or of failure to tag a game animal or game bird as prescribed by law shall be fined not less than $50 or more than $200 or imprisoned in the county jail for not more than 30 days, or both."

Renumber: subsequent subsection

13. Amend page 3, section 1, lines 5 through 11.
Following: line 4
Strike: subsections 3 and 4 in their entirety

14. Amend page 3, section 2, lines 12 through line 4, on page 6.
Following: line 11
Strike: section 2 in its entirety
Renumber: subsequent sections

15. Amend page 8, section 6, lines 21- through 25.
Following: "forfeited."
Strike: Upon conviction for a violation of 26-1205 through 26-1212,

the permit required by 26-1205 through 26-1212 is revoked and the privilege to purchase a permit is suspended for 16 months.
Insert: "Any person violating the provisions of this act shall, upon conviction, be punished as provided in 26-324, and at the discretion of the court the permit and all rights and privileges inherent therein may be forfeited"

16. Amend page 9, section 7, lines 8 through line 8 on page 14.
Following: line 7
Strike: sections 7 through 10 in their entirety.

AND, AS SO AMENDED

DO PASS

SENATOR FRANK DUNKLE, CHAIRMAN

That Senate Bill No. 430 do pass. Unanimously passed.

That consideration of Senate Bill No. 433 be passed. Unanimously passed.

That consideration of Senate Joint Resolution No. 12 be passed. Unanimously passed.

That consideration of House Bill No. 290 be passed. Unanimously passed.

That consideration of House Bill No. 325 be passed. Unanimously passed.

That Senate Bill No. 237 be amended as follows:

1. Amend page 3, section 3, line 4.
Following: line 3
Strike: "after July 1, 1977,"

And, as so amended, do pass. Unanimously passed.

That the Committee rise and report. (Thiessen, Chairman)

Upon motion of Senator Thiessen, duly carried, the foregoing Report of the Committee of the Whole was adopted.

At the request of the President, and without objection, the Senate reverted to Order of Business No. 2.

REPORTS OF STANDING COMMITTEES

BILLS (Warden, Chairman):
Correctly engrossed - SB 347. Report adopted.
Considered correctly engrossed - SB 173, SB 242, SB 284, SB 300, SB 301, SB 334, SB 414, SB 415, SB 437, SJR 20, SJR 32, SJR 33. Report adopted.

PRINTING (Warden, Chairman):
Correctly printed and placed on members' desks - SB 27, SB 61, SB 68, SB 85, SB 162, SB 187, SB 192, SB 205, SB 206, SB 233, SB 263, SB 290, SB 292, SB 306, SB 327, SB 329, SB 335, SB 376, SB 379, SB 389, SB 391, SB 425, SB 429, SB 436, SJR 34, SJR 36. Report adopted.

AGRICULTURE, LIVESTOCK, AND IRRIGATION (Graham, Chairman):
HB 484 be reported without recommendation. Report adopted.

Upon motion of Senator Murphy, duly carried, that the reading of favorable standing committee reports be dispensed with and that the reports be adopted.

HB 246 be concurred in. Report adopted.

FISH AND GAME (Dunkle, Chairman):
SB 203, introduced bill, be amended as follows:

1. Amend title, line 6.
Following: "26-812,"
Insert: "and"
Following: "26-1211,"
Strike: "and 95-2206,"

2. Amend title, line 7.
Following: "1947"

Strike: "; and creating a point system for license revocation"

3. Amend page 1, section 1, line 20.
Following: line 19
Strike: "less than 2 days or"

4. Amend page 1, section 1, line 25 and line 1 on page 2.
Following: "(conviction)"
Strike: "according to the point system in (sections 7 and 9 of this act)"
Insert: "for a period of 16 months from the date of conviction"

5. Amend page 2, section 1, line 4.
Following: "moose,"
Insert: "wild bison, caribou, mountain goat,"

6. Amend page 2, section 1, line 6.
Following: "not"
Strike: "less than 5 days or"

7. Amend page 2, section 1, line 10.
Following: "months"
Insert: "from the date of conviction"

8. Amend page 2, section 1, line 13.
Following: line 12
Strike: "wild buffalo, caribou, mountain goat,"

9. Amend page 2, section 1, line 16.
Following: "not"
Strike: "less than 5 days or"

10 Amend page 2, section 1, line 20.
Following: "months"
Insert: "from the date of conviction"

11. Amend page 2, section 1, line 24.
Following: "not"
Strike: "less than 2 days or"

12. Amend page 2, section 1, line 25.
Following: line 24
Insert: "(d) A person convicted of unlawfully taking, killing, possessing, transporting, shipping, labeling, packaging, or wasting or unlawfully attempting to take, kill, or possess any game bird, wild turkey, fish, or fur-bearing animal or any part of any such animal or fish or of failure to tag a game animal or game bird as prescribed by law shall be fined not less than $50 or more than $200 or imprisoned in the county jail for not more than 30 days, or both."
Renumber: subsequent subsection

13. Amend page 3, section 1, lines 5 through 11.
Following: line 4
Strike: subsections 3 and 4 in their entirety

14. Amend page 3, section 2, line 12 through line 4, page 6.
Following: line 11
Strike: section 2 in its entirety
Renumber: subsequent sections

15. Amend page 8, section 6, lines 21 through 25.
Following: "(forfeited.)"
Strike: "Upon conviction for a violation of 26-1205 through 26-1212,

the permit required by 26-1205 through 26-1212 is revoked and the privilege to purchase a permit is suspended for 16 months"
Insert: "Any person violating the provisions of this act shall, upon conviction, be punished as provided in 26-324, and at the discretion of the court the permit and all rights and privileges inherent therein may be forfeited"

16. Amend page 9, section 7, line 8 through line 8 on page 14.
Following: line 7
Strike: sections 7 through 10 in their entirety.

(Material in parentheses denotes cancelled type.)

And, as so amended, do pass. Report adopted.

LOCAL GOVERNMENT (McCallum, Chairman):
SB 401 do pass. Report adopted.

NATURAL RESOURCES (Flynn, Chairman):
SB 381, introduced bill, be amended as follows:

1. Amend page 1, section 1, line 17.
Following: "affected."
Insert: "This exemption from the requirement of a contract shall be allowed only once for each mineral deposit. For the purpose of this section, deposit means a separate and distinct natural accumulation of mineral."

And, as so amended, do pass. Report adopted.

SJR 17, introduced bill, be amended as follows:

1. Amend title, line 9.
Following: "constructed"
Insert: "and urging the construction of the arctic gas project pipeline along the inland route through Montana"

2. Amend page 1, line 14.
Following: line 13
Insert: "WHEREAS, one proposal, the Arctic Gas Project pipeline, would follow an inland route through Canada and the United States; and"

3. Amend page 2, line 5.
Following: line 5
Insert: "BE IT FURTHER RESOLVED, that the Senate and House of Representatives of the State of Montana urge the selection and construction of the proposed Arctic Gas Project pipeline proposal along the inland route.

BE IT FURTHER RESOLVED, that the Secretary of State of Montana send a copy of this resolution to the Montana Congressional delegation and the Chairman of the Federal Power Commission."

And, as so amended, do pass. Report adopted.

PUBLIC HEALTH, WELFARE, AND SAFETY (Stephens, Chairman):
SB 365, introduced bill, be amended as follows:

1. Amend page 2, section 1, line 18.
Followng: line 17
Insert: "(3) A needy person who is a recipient of medical benefits, or his legal representative, shall notify the state department of any action initiated, or of any compromise or settlement agreed to by

effect. If a part of this act is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications."

And, as so amended, do pass. Unanimously passed.

That Senate Bill No. 426 be amended as follows:

1. Amend title, line 14.
Following: "department of"
Strike: "justice"
Insert: "business regulation"

2. Amend page 1, section 1, line 21.
Following: "department of"
Strike: "justice"
Insert: "business regulation"

3. Amend page 5, section 8, line 21.
Following: line 21
Insert: "Section 9. Severability. If a part of this act is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of this act is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications."

And, as so amended, do pass. Unanimously passed.

That House Joint Resolution No. 8 be concurred in. Opposed by Hager.

That Senate Bill No. 122 do pass. Unanimously passed.

That Senate Bill No. 203 do pass. Unanimously passed.

That consideration of Senate Bill No. 221 be passed. Unanimously passed.

That Senate Bill No. 240 be amended as follows:

1. Amend page 6, section 6, line 9.
Following: "not"
Insert: "otherwise a qualified elector."

And, as so amended, do pass. Unanimously passed.

That Senate Bill No. 255 be amended as follows:

1. Amend title, lines 4 through 8.
Following: "to"
Strike: "reduce the penalties for criminal possession of 60 grams or less of hashish; to repeal the provision that first offenders of 21 years of age or under are presumed to be entitled to a suspended sentence;"
Insert: "improve the enforcement of marijuana laws by increasing penalties in some cases and reducing penalties in other cases"

(Amendment opposed by Bergren, Dunkle, Galt, Kolstad, McCallum, Manley, Thiessen.)

And, as so amended, do pass. Opposed by Aber, Bergren, Boylan, Devine, Dover, Dunkle, Etchart, Galt, Healy, Kolstad, Lockrem, Lowe, McCallum, Manley, Mehrens, Nelson, Roskie, E. Smith, Stephens, Story, Thiessen.

That Senate Bill No. 275 do pass. Unanimously passed.

Senate Bill No. 203 was passed by the following vote:

Ayes: Aber, Bergren, Blaylock, Boylan, Brown, Dover, Dunkle, Fasbender, Flynn, Galt, Goodover, Graham, Hazelbaker, Healy, Jergeson, Lee, Lensink, Lowe, McCallum, Manley, Manning, Mathers, Murphy, Murray, Nelson, Norman, Olson, Rasmussen, Regan, Roberts, R. Smith, Thiessen, Thomas, Towe, Turnage, Warden, Watt, Mr. President.
Total 38

Noes: Devine, Etchart, Himsl, Mehrens, Roskie, Story.
Total 6

Excused: None.
Total 0

Absent or not voting: Hager, Kolstad, Lockrem, Peterson, E. Smith, Stephens.
Total 6

Senate Bill No. 221 was passed by the following vote:

Ayes: Aber, Bergren, Blaylock, Boylan, Brown, Dover, Dunkle, Etchart, Fasbender, Flynn, Galt, Hazelbaker, Jergeson, Lensink, Lowe, McCallum, Manley, Manning, Mathers, Murphy, Murray, Nelson, Norman, Olson, Rasmussen, Regan, Roberts, Roskie, R. Smith, Story, Thiessen, Thomas, Turnage, Mr. President.
Total 34

Noes: Devine, Goodover, Healy, Himsl, Lee, Mehrens, Peterson, Towe, Warden, Watt.
Total 10

Excused: None.
Total 0

Absent or not voting: Graham, Hager, Kolstad, Lockrem, E. Smith, Stephens.
Total 6

(Including the following pair: Murphy, aye - Peterson, no.)

Senate Bill No. 226 was passed by the following vote:

Ayes: Aber, Bergren, Blaylock, Boylan, Brown, Devine, Dover, Dunkle, Etchart, Fasbender, Flynn, Galt, Goodover, Graham, Hazelbaker, Healy, Himsl, Jergeson, Lee, Lensink, Lowe, McCallum, Manley, Manning, Mathers, Murphy, Murray, Nelson, Norman, Olson, Rasmussen, Regan, Roberts, Roskie, R. Smith, Story, Thiessen, Thomas, Towe, Turnage, Watt, Mr. President.
Total 42

Noes: Mehrens, Warden.
Total 2

Excused: None.
Total 0

Absent or not voting: Hager, Kolstad, Lockrem, Peterson, E. Smith, Stephens.
Total 6

Senate Bill No. 240 was passed by the following vote:

Ayes: Aber, Bergren, Blaylock, Boylan, Brown, Devine, Dover, Dunkle, Etchart, Fasbender, Flynn, Galt, Goodover, Graham, Hazelbaker, Healy,

Bill No.	Subject Matter	Date In	Sponsor	Hearing Date	Committee Action	Date Out
SJR 27	Authorizing Ft. Peck Project to include recreation and conservation of fish and wildlife	3-2	Jergeson	3-8	Be concurred in	3-8
SB 203	Revising penalties for fish and game violations	3-3	Dunkle	3-10	Be concurred in as amended	3-17
SB 242	Establishing guide requirements for nonresident big or trophy game hunters	3-10	Manley	----	Subcommittee Be Not Conc. in	3-17 3-24

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SENATE BILL NO. 203

INTRODUCED BY DUNKLE

A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE THE PENALTIES FOR FISH AND GAME VIOLATIONS; AMENDING SECTIONS 26-315, 26-319, 26-324, 26-812, AND 26-1211, ~~AND 95-2206,~~ R.C.M. 1947~~, AND CREATING A POINT SYSTEM FOR LICENSE REVOCATION~~."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 26-324, R.C.M. 1947, is amended to read as follows:

"26-324. ~~Penalty~~ Penalties. (1) A person violating any provision of Title 26, any other state law pertaining to fish and game ~~thereto~~, or the orders, or rules, ~~and regulations~~ of the commission is, unless a different punishment is expressly provided by law for the violation, guilty of a misdemeanor and shall be fined not less than ~~twenty-five dollars ($25) nor~~ $50 or more than ~~five hundred dollars ($500)~~, or imprisoned in the county jail for not ~~less than 2 days or~~ more than ~~six (6)~~ months, or both ~~fined and imprisoned~~. In addition, the person shall~~, in the discretion of the court, forfeit~~ be subject to forfeiture of his license and privilege to hunt, fish, or trap within this state ~~for a period of sixteen (16) months from the date of conviction according to the point system in [sections 7 and 8 of this act]~~ FOR A PERIOD OF 16 MONTHS FROM THE DATE OF CONVICTION.

(2) (a) A person convicted of unlawfully taking, killing, possessing, transporting, or wasting of a bighorn sheep, moose, WILD BISON, CARIBOU, MOUNTAIN GOAT, or grizzly bear or any part of these animals shall be fined not less than $500 or more than $1,000, imprisoned in the county jail for not ~~less than 5 days or~~ more than 6 months, or both. In addition, that person shall forfeit any current hunting, fishing, or trapping license issued by this state and the privilege to hunt, fish, or trap in this state for 24 months FROM THE DATE OF CONVICTION.

(b) A person convicted of unlawfully taking, killing, possessing, transporting, or wasting of a deer, antelope, ~~wild buffalo, caribou, mountain goat,~~ elk, mountain lion, or black bear or any part of these animals shall be fined not less than $300 or more than $1,000, imprisoned in the county jail for not ~~less than 5 days or~~ more than 6 months, or both. In addition, that person shall forfeit any current hunting, fishing, or trapping license issued by this state and the privilege to hunt, fish, or trap in this state for 16 months FROM THE DATE OF CONVICTION.

(c) A person convicted of unlawfully attempting to trap, take, shoot, or kill a game animal shall be fined not

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less than $200 or more than $600, imprisoned in the county jail for not ~~less than 2 days or~~ more than 60 days, or both.

(D) A PERSON CONVICTED OF UNLAWFULLY TAKING, KILLING, POSSESSING, TRANSPORTING, SHIPPING, LABELING, PACKAGING, OR WASTING OR UNLAWFULLY ATTEMPTING TO TAKE, KILL, OR POSSESS ANY GAME BIRD, WILD TURKEY, FISH, OR FUR-BEARING ANIMAL OR ANY PART OF ANY SUCH ANIMAL OR FISH OR OF FAILURE TO TAG A GAME ANIMAL OR GAME BIRD AS PRESCRIBED BY LAW SHALL BE FINED NOT LESS THAN $50 OR MORE THAN $200 OR IMPRISONED IN THE COUNTY JAIL FOR NOT MORE THAN 30 DAYS, OR BOTH.

~~(d)~~(E) A person convicted of hunting, fishing or trapping while his license is forfeited or his privilege denied shall be imprisoned in the county jail for not less than 5 days or more than 6 months. In addition that person may be fined not less than $500 or more than $1,000.

~~(2) No fine or penalty established in this section may be suspended, deferred, or reduced.~~

~~(3) When a person is convicted of a violation of any provision of Title 26, any other state law pertaining to fish and game, or any order or rule of the commission, the clerk of court shall send notice, within 10 days of the action to the commission.~~"

~~Section 2. Section 95-2206, R.C.M. 1947, is amended to read as follows:~~

~~"95-2206. Sentence. Whenever any person has been found guilty of a crime or offense upon a verdict or a plea of guilty the court may:~~

~~(1) Defer imposition of sentence for a period not to exceed one (1) year for any misdemeanor, except as provided in 26-324, and for a period not to exceed three (3) years for any felony. The sentencing judge may impose upon the defendant any reasonable restrictions or conditions during the period of the deferred imposition. Such reasonable restrictions or conditions may include:~~

~~(a) jail base release;~~

~~(b) jail time not to exceed ninety (90) days;~~

~~(c) conditions for probation;~~

~~(d) restitution;~~

~~(e) any other reasonable conditions deemed necessary for rehabilitation or for the protection of society;~~

~~(f) any combination of the above.~~

~~(2) Suspend execution of sentence up to the maximum sentence allowed for the particular offense, except as provided in 26-324. The sentencing judge may impose on the defendant any reasonable restrictions during the period of suspended sentence. Such reasonable restrictions may include:~~

~~(a) jail base release;~~

~~(b) jail time not to exceed (90) days;~~

~~(c) conditions for probation;~~

~~(d)--restitution;~~

~~(e)--any--other--reasonable-conditions-deemed-necessary for-rehabilitation-or-for-the-protection-of-society;~~

~~(f)--any-combination-of-the-above.~~

~~If-any-restrictions-or--conditions--are--violated,--any elapsed--time,--except--jail--time,--shall--not--be-a-credit against-the--sentence,--unless--the--court--shall--otherwise order.~~

~~(3)--Impose--a-fine-as-provided-by-law-for-the-offense.~~

~~(4)--Commit-the-defendant-to-a-correctional-institution with-or-without-fine-by-law-for-the-offense.~~

~~(5)--Impose-any-combination-of-subsections-(2),-(3),-or (4)-above.~~

~~(6)--The-district-court-may--also--impose--any--of--the following--restrictions--or-conditions-on-the-above-sentence which--it--deems--necessary--to--obtain--the--objective---of rehabilitation-and-the-protection-of-society:~~

~~(a)--prohibit--the--defendant--the-right-to-hold-public office;~~

~~(b)--prohibit-the-defendant-the-right-to-own-or-carry-a dangerous-weapon;~~

~~(c)--prohibit-freedom-of-association;~~

~~(d)--prohibit-freedom-of-movement;~~

~~(e)--any-other-limitation--reasonably--related--to--the objectives-of-rehabilitation-or-the-protection-of-society.~~

~~(7)--The--judge-in-the-justice-court-shall-not-have-the authority-to-restrict-an-individual's-rights--as--enumerated in-subsection-(6).~~

~~Any-judge-who-has-suspended-the-execution-of-a-sentence or--deferred--the--imposition--of-a-sentence-of-imprisonment under--this--section,--or--his--successor,---is---authorized thereafter,--in--his--discretion,--during-the-period-of-such suspended-sentence-or-deferred--imposition--of--sentence--to revoke--such--suspension--or--impose-sentence-and-order-such person-committed,-or--may,--in--his--discretion,--order--the prisoner-placed-under-the-jurisdiction-of-the-state-board-of pardons-as-provided-by-law,-or-retain-such-jurisdiction-with this--court.--Prior-to-the-revocation-of-an-order-suspending or-deferring-the-imposition-of-sentence,-the-person-affected shall-be-given-a-hearing.~~"

Section 2. Section 26-315, R.C.M. 1947, is amended to read as follows:

"26-315. Taking deer within boundaries of cities or towns unlawful -- penalty. It ~~shall be~~ is unlawful to shoot, kill, take, or cause to be shot, killed, taken or captured, or to attempt to shoot, kill, take or capture, any deer within the boundaries of any incorporated or unincorporated city or town of this state.

~~Any--person--violating-the-provisions-of-this-act-shall be-guilty-of-a--misdemeanor,--and--upon--conviction--thereof~~

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~~shall be punished by a fine of not less than twenty-five dollars ($25) nor more than five hundred dollars ($500), or by imprisonment in the county jail for a period of not less than ten (10) days nor more than one hundred and eighty (180) days, or by both such fine and imprisonment, and in addition thereto shall forfeit his fish and game license for a period of one (1) year.~~"

Section 3. Section 26-319, R.C.M. 1947, is amended to read as follows:

"26-319. Penalty for violating closed season on certain game birds -- power of commission to open season. It ~~shall hereafter~~ is be unlawful for any person to hunt, shoot, kill, capture, possess, or cause to be hunted, killed, or captured or ~~attempts~~ attempt to shoot, kill, or capture any quail, Chinese or Mongolian pheasants, commonly called ringneck pheasants, Hungarian partridge, chukar partridge, sage grouse, sharptailed grouse, blue grouse, fool hen, prairie chicken, ruffed grouse, ptarmigan, or wild turkey until such time as the commission shall provide an open season on any quail, Chinese or Mongolian pheasants, commonly called ringneck pheasant, Hungarian partridge, chukar partridge, sage grouse, sharptailed grouse, blue grouse, fool hen, prairie chicken, ruffed grouse, ptarmigan, or wild turkey.

~~Any person violating any of the provisions of this act~~

~~or any person who has in his possession any of such birds or any part of any such birds, shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not less than fifty dollars ($50.00), nor more than two hundred fifty dollars ($250.00), or by imprisonment in the county jail for not more than sixty (60) days, or by [both] such fine and imprisonment.~~"

Section 4. Section 26-812, R.C.M. 1947, is amended to read as follows:

"26-812. Forfeiture of license or permit for littering ~~activity during suspension as misdemeanor~~. Any holder of a Montana resident or nonresident fishing or hunting license, or camping permit convicted of littering campgrounds, public or private lands, streams, or lakes while hunting, fishing, or camping shall forfeit his license and privilege to hunt, fish, camp, or trap within Montana for a period of ~~one (1)~~ year from the date of conviction. ~~Any person who hunts, fishes, camps or traps in Montana while such license and privilege are suspended is guilty of a misdemeanor.~~"

Section 5. Section 26-1211, R.C.M. 1947, is amended to read as follows:

"26-1211. Enforcement -- penalty -- confiscation or disposal of illegally kept animals -- appeal. (1) The provisions of this act shall be enforced by any ~~state fish~~

and-game warden or any other legally authorized officer. Any person-violating-the-provisions--of--this--act--shall,--upon conviction,--be--punished--by--a--fine--of-not-more-than-two hundred-fifty-dollars-($250.00),-imprisonment-for--a--period of--not--more--than--ten--(10)--days,--or--both,--and-at-the discretion-of-the--court--the--permit--and--all--rights--and privileges---inherent---therein---may---be--forfeited. Upon conviction-for-a-violation-of-26-1205-through--26-1212,--the permit--required--by--26-1205-through-26-1212-is-revoked-and the-privilege-to-purchase--a--permit--is--suspended--for--16 months ANY PERSON VIOLATING THE PROVISIONS OF THIS ACT SHALL, UPON CONVICTION, BE PUNISHED AS PROVIDED IN 26-324, AND AT THE DISCRETION OF THE COURT THE PERMIT AND ALL RIGHTS AND PRIVILEGES INHERENT THEREIN MAY BE FORFEITED.

(2) Any animals being kept in violation of any section of this act may be confiscated or ordered disposed of at the discretion of the state--fish--and--game director. The permittee may appeal to the commission within twenty--(20) days of the date of the order to confiscate and the commission shall hold a hearing on such an appeal and the decision of the commission shall be final."

Section-6.--There-is-a-new-R.C.M.-section-that-reads-as follows:

Cancellation--and-suspension-of-license-and-privileges. (1)-For-purposes-of-this-section-and-[sections-8,-9,-and--10

of---this--act],--the--term--"license"--means--any--license, certificate,-stamp,-card,-or-permit-issued-by-the-department except-outfitters',-guides',-and-taxidermists'-licenses,-the cancellation-and-suspension-of--which--is--provided--for--in 26-919-and-26-920.

(2)--The-commission-shall-revoke-a-license-and-suspend, for--a--period-of-16-months,-the-privilege-of-purchasing-any license-and-the-benefits,-rights,-and--privileges--conferred by-any-license-if-the-holder:

(a)--has-been-convicted-of-causing-a-forest-fire;

(b)--has--been--convicted-of-fraudulent-purchase-of-any license;

(c)--has-caused-the-death-of-another-person,-though-not in-a-criminal-manner,-while-hunting;

(d)--has-illegally-taken-a-deer-within--the--boundaries of-a-city-or-town-as-prohibited-in-26-315;-or

(e)--has--been--convicted-of-violations-of-the-fish-and game-laws-of-any-state-so-as-to-have-accumulated-10-or--more points-within-any-consecutive-5-year-period,-as-indicated-in the-table-set-forth-in-[section-8].

Section-7.--There-is-a-new-R.C.M.-section-that-reads-as follows:

Point--system.--For-the-purpose-of-suspending-a-license as-provided-in-[section-7],--points--shall--be--assessed--as follows:

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~~(1) hunting, fishing, or trapping without a proper and valid license ..... 10 points~~

~~(2) false statement made in connection with the purchase of any license issued under this title ... 10 points~~

~~(3) hunting migratory waterfowl without a valid federal duck stamp in possession ..... 6 points~~

~~(4) illegal transfer, sale, gift, loan, or assignment of any license issued under this title ..... 6 points~~

~~(5) alteration of any license issued under this title ..... 10 points~~

~~(6) shooting from, upon, or across a public road ..... 10 points~~

~~(7) hunting or fishing in a closed or improper area ... 6 points~~

~~(8) hunting, fishing, or trapping on private property without permission of the owner ..... 3 points~~

~~(9) hunting before or after hours ..... 3 points~~

~~(10) use of an aircraft or a motor vehicle to take, kill, capture, wound, injure, or harass wildlife ... 10 points~~

~~(11) fishing with an unattended rod ..... 3 points~~

~~(12) fishing with more than one rod ..... 3 points~~

~~(13) hunting with an illegal weapon or unlawful method of hunting ..... 4 points~~

~~(14) use of unlawful devices in hunting small game or in fishing ..... 10 points~~

~~(15) use of unlawful devices in hunting big game ..... 10 points~~

~~(16) illegal possession of big game ..... 12 points~~

~~(17) illegal possession of small game or fish ..... 10 points~~

~~(18) failure to tag big game ..... 8 points~~

~~(19) failure to have evidence of sex accompanied with wildlife, when necessary ..... 6 points~~

~~(20) waste of fish on which a bag or possession limit has been set by the commission ..... 6 points~~

~~(21) waste of game meat ..... 10 points~~

~~(22) hunting during a closed season ..... 6 points~~

~~(23) refusing to produce a license or permit for inspection ..... 10 points~~

~~(24) failure to wear hunter orange garments when required by law ..... 10 points~~

~~(25) failure to stop at a check station ..... 10 points~~

~~(26) building a fire in a prohibited area ..... 8 points~~

~~(27) illegal possession of bald or golden eagle ..... 12 points~~

~~(28) illegal possession of raptors other than a bald or golden eagle ..... 10 points~~

~~(29) illegal possession of wildlife listed as endangered ..... 10 points~~

~~(30) failure to notify department of acquisition, loss,~~

death, release, or transfer of raptor ..... 6 points

(31) transporting a raptor out of the state without a valid permit ..... 10 points

(32) acting as an outfitter or guide without a proper and valid license under 26-916 ..... 10 points

Section 8. There is a new RCM section that reads as follows:

Multiple violations -- notice to license agents -- renewals. (1) For more than one violation of any offense set forth in [section 8], the commission, in its discretion, shall:

(a) for a second offense, assess twice the number of points listed for the violation;

(b) for a third or subsequent offense, assess 4 times the number of points listed for the offense.

(2) A suspension of privilege under [section 7] shall be for a period not to exceed 3 years, and any person whose privilege to purchase any license has been suspended is not entitled to purchase any license issued by the department and may not apply for a renewal, reissue, duplicate, or new license until the suspension has expired.

(3) Upon suspension, the commission shall give notice of the suspension to the person whose privilege has been suspended by registered or certified mail addressed to the last known address of such person and shall further give

written notice to those individuals designated by the commission to act as license agents of the fact of such suspension and the identity of the person whose privilege has been suspended.

(4) If any person whose license has been cancelled or whose privilege to purchase any license has been suspended as provided in [section 7] is convicted of exercising or attempting to exercise the benefits conferred by the license during the period of cancellation or suspension, the commission shall renew or extend the period of cancellation or suspension for an additional period of 3 years from the date of conviction.

(5) For the purposes of license or privilege revocation or suspension, the payment of a penalty assessment under 26-324 is a conviction of the offense for which the penalty assessment was paid.

Section 9. There is a new RCM section that reads as follows:

Appeal of revocation or suspension of license or privileges. A person whose license or privilege is suspended or revoked may appeal to the district court of the county in which he resides or of Lewis and Clark County for relief.

-End-

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FISH AND GAME COMMITTEE

March 10, 1977

The meeting was called to order at noon with all members present except Rep. Manuel, who was excused.

Senate Bill 203 was discussed. Senator Dunkle, chief sponsor, was not present. Rep. Staigmiller said that William Thomas, a teacher from Great Falls, studied 37 states' fees for violation of fish and game laws and came up with this bill. The Senate has amended out the point system that was in the bill.

Mr. Wes Woodgerd explained the bill. He said it revises penalties for fish and game violations and makes classifications of violations. The most valuable game animals have the highest fine - $1000 and discretionary jail sentence and revocation of license for 24 months. Other classifications are not as serious so they have a minimum fine of $300 and discretionary jail sentence and revocation of license for 16 months. Attempting to take game is also covered by the bill. Mr. Thomas did a very extensive study of the penalty system and found it was old and out of date and had discrepancies so the laws did need revision. We support the revisions contained in the bill.

Mr. Orville Lewis and Ralph Holman rose in support of the bill. There were no opponents.

Discussion followed on whether the penalties and revocations should be much higher, and whether revocation of license is not a better deterrent than a fine. John Hollow suggested amending out "penalty" from the catch lines on pages 6, 7, and 8.

There being no further business, the meeting adjourned at 12:25 p.m.

JOHN B. STAIGMILLER, Chairman

FISH AND GAME COMMITTEE

March 17, 1977

The meeting was called to order at 11:10 a.m., with all members present except Reps. Tropila and Barrett, who were excused.

The Committee went into Executive Session to consider bills.

Senate Bill 203 - Rep. Baeth discussed the attached amendments. Rep. Seifert moved that they be adopted. The motion passed unanimously. Rep. Baeth then moved that the bill BE CONCURRED IN AS AMENDED. The motion passed unanimously. Rep. Johnston then requested that an exception be made in the case of wasting mountain lion and bear meat. The request was treated as a motion, and passed unanimously. The bill will except the meat of these two animals from the wasting prohibition. Rep. Baeth will carry the bill on the floor of the House.

Senate Bill 242 - The Chairman placed this bill into a subcommittee composed of Rep. Johnston, chairman, Reps. Conroy and Ellis. They will study the bill and report back to the committee.

There being no further business, the meeting adjourned at 11:20 a.m.

JOHN D. STAIGMILLER, Chairman

HOUSE OF REPRESENTATIVES March 17, 1977

COMMITTEE ON FISH AND GAME AMENDMENTS TO SENATE BILL 203

Amend the third reading bill as follows:

1. Amend page 2, section 1, subsection (1), line 2.
Following: "PERIOD OF"
Strike: "16"
Insert: "not less than 24"

2. Amend page 2, section 1, subsection (2)(a), line 12.
Following: "for"
Strike: "24"
Insert: "not less than 30"

3. Amend page 2, section 1, subsection (2)(b), line 15.
Following: "possessing,"
Insert: "or"
Following: "transporting"
Strike: ", or wasting of"

4. Amend page 2, section 1, subsection (2)(b), line 17.
Following: "animals"
Insert: ", or wasting a deer, antelope, or elk,"

5. Amend page 2, section 1, subsection (2)(b), line 23.
Following: line 22
Strike: "16"
Insert: "not less than 24"

6. Amend page 6, section 2, line 19.
Following: "unlawful"
Strike: "-- penalty"

7. Amend page 7, section 3, line 10.
Following: "26-319."
Strike: "Penalty for violating"
Insert: "Unlawful to hunt during"

AS AMENDED
BE CONCURRED IN

Standing Committee Report 3-17

SB 365, be concurred in. Report adopted.
SB 443, be concurred in. Report adopted.

AGRICULTURE, LIVESTOCK AND IRRIGATION
(Day, Chairman) 3/17/77
SB 49, be concurred in. Report adopted.
SB 189, be concurred in. Report adopted.
SB 261, be concurred in. Report adopted.
SJR 41, be concurred in. Report adopted.

NATURAL RESOURCES (Shelden, Chairman): 3/17/77
SB 111, third reading copy, be amended as follows:

1. Amend page 7, section 3, line 23.
Following: "owners'"
Insert: "increased"

2. Amend page 7, section 3, line 24.
Following: "production"
Insert: "from such subsequent program"

And as amended, be concurred in. Report adopted.

SJR 24, be concurred in. Report adopted.

FISH AND GAME (Staigmiller, Chairman): 3/17/77
SB 203, third reading copy, be amended as follows:

1. Amend page 2, section 1, subsection (1), line 2.
Following: "period of"
Strike: "16"
Insert: "not less than 24"

2. Amend page 2, section 1, subsection (2)(a), line 12.
Following: "for"
Strike: "24"
Insert: "not less than 30"

3. Amend page 2, section 1, subsection (2)(b), line 15.
Following: "possessing,"
Insert: "or"
Following: "transporting"
Strike: ", or wasting of"

4. Amend page 2, section 1, subsection (2)(b), line 17.
Following: "animals"
Insert: ", or wasting a deer, antelope, or elk,"

5. Amend page 2, section 1, subsection (2)(b), line 23.
Following: line 22
Strike: "16"
Insert: "not less than 24"

6. Amend page 6, section 2, line 19.
Following: "unlawful"
Strike: "— penalty"

7. Amend page 7, section 3, line 10.
Following: "26-319."
Strike: "Penalty for violating"
Insert: "Unlawful to hunt during"

And as amended, be concurred in. Report adopted.

Absent or not voting: Kimble.
Total 1

3-19-77

SECOND READING OF BILLS (COMMITTEE OF THE WHOLE)

Meloy moved that the House resolve itself into a Committee of the Whole, for the consideration of business on Second Reading, under the rules of the previous sitting. Motion carried.

Moore in the Chair. Committee arose.

House resumed. Mr. Speaker in the Chair.

Mr. Speaker: We, your Committee of the Whole, having had under consideration business on Second Reading, recommend as follows:

That SB 101 be placed below SB 203.

That SB 393 be concurred in. (73-5)

Kimble present at this time.

That SB 149 be concurred in. (77-9)

That SB 178 be concurred in. (74-5)

That SB 187 be concurred in. (77-2)

That SB 188 be concurred in. (61-18)

Estenson present at this time.

That SB 189 be not concurred in. (51-39)

That SB 203 be concurred in. (77-3)

That SB 101 be amended as follows:

1. Amend title, line 6.
Following: "by"
Strike: "legislators"
Insert: "the administrative code committee"

2. Amend page 1, section 1, line 18.
Following: "Section 1."
Strike: "legislator's"

3. Amend page 1, section 1, line 19.
Following: "by"
Strike: "agencies"
Insert: "an agency"

4. Amend page 1, section 1, line 22.
Following: "if"
Strike: "any fifteen legislators"
Insert: "the administrative code committee of the legislature"

5. Amend page 1, section 1, line 23.
Following: "session"
Strike: "object"
Insert: "objects"

6. Amend page 1, section 1, line 24.
Following: "forth"
Insert: "specific"
Following: "for"

3-23-77

O'Connell, Pistoria, Day, Jensen, Kanduch, Bardanouve, South, Holmes, Bradley, Ellison, Lund, Ellerd. Referred to Committee on Natural Resources.

The following Senate bill was introduced, read first time and referred to committee:

SB 167, introduced by Rasmussen, Hager, Brown, Roberts, Kolstad, Jergeson, Lensink, Stephens, Blaylock, Warden. Referred to Committee on Natural Resources.

THIRD READING OF BILLS

The following bills having been read three several times, title and history agreed to, were disposed of in the following manner:

Senate Bill No. 101 was concurred in by the following vote:

Ayes: Aageson, R. Baeth, W. Baeth, Bardanouve, Barrett, Bengtson, Bertelsen, Bradley, Brand, Burnett, Colburn, Cooney, Courtney, Cox, Curtiss, Dassinger, Davis, Day, Dussault, Ellerd, Ellis, Ellison, Ernst, Estenson, Eudaily, Fabrega, Fagg, Gilligan, Gould, E. Gunderson, J. Gunderson, Halvorson, Hansen, Harrington, Hirsch, Holmes, Huennekens, Hurwitz, Jensen, Johnston, Kanduch, Kessler, Keyser, Kropp, Kvaalen, Lien, Lund, Lynch, McLane, Manuel, Marks, Menahan, Metcalf, Meyer, Moore, Mular, Nathe, O'Connell, O'Keefe, Porter, Quilici, Ramirez, Robbins, Roth, Seifert, Severson, Sivertsen, Smith, South, Stobie, Tower, Turner, Vincent, Vinger, Wood, Wyrick, Mr. Speaker.
Total 77

Noes: Conroy, Feda, Frates, Gerke, Hand, Harper, Kenny, Kimble, Lory, Meloy, Pistoria, Ryan, Scully, Shelden, Staigmiller, Teague, Tropila, Underdal, Waldron, Williams.
Total 20

Paired: Marks, Aye; Gerke, No.

Excused: Kennerly, Palmer, Uhde.
Total 3

Absent or not voting: None.
Total 0

Senate Bill No. 203 was concurred in by the following vote:

Ayes: Aageson, R. Baeth, W. Baeth, Bardanouve, Barrett, Bengtson, Bertelsen, Bradley, Brand, Burnett, Colburn, Conroy, Cooney, Courtney, Cox, Curtiss, Dassinger, Davis, Day, Dussault, Ellerd, Ellis, Ernst, Estenson, Eudaily, Fabrega, Fagg, Feda, Frates, Gerke, Gilligan, Gould, E. Gunderson, J. Gunderson, Halvorson, Hand, Hansen, Harper, Harrington, Hirsch, Holmes, Huennekens, Hurwitz, Jensen, Johnston, Kanduch, Kenny, Kessler, Kimble, Kropp, Kvaalen, Lien, Lory, Lund, Lynch, McLane, Manuel, Meloy, Menahan, Metcalf, Meyer, Moore, Mular, Nathe, O'Connell, O'Keefe, Pistoria, Porter, Quilici, Ramirez, Robbins, Roth, Scully, Seifert, Severson, Shelden, Sivertsen, Smith, South, Staigmiller, Tower, Tropila, Turner, Underdal, Vincent, Vinger, Waldron, Williams, Wood, Wyrick, Mr. Speaker.
Total 91

Noes: Ellison, Keyser, Ryan, Stobie, Teague.
Total 5

Excused: Kennerly, Marks, Palmer, Uhde.
Total 4

42

Absent or not voting: None.
Total 0

Senate Bill No. 223 was concurred in by the following vote:

Ayes: Aageson, R. Baeth, W. Baeth, Bardanouve, Barrett, Bengtson, Bertelsen, Bradley, Brand, Burnett, Colburn, Conroy, Cooney, Courtney, Cox, Curtiss, Dassinger, Davis, Day, Dussault, Ellerd, Ellis, Ellison, Ernst, Estenson, Eudaily, Fabrega, Fagg, Feda, Frates, Gerke, Gilligan, Gould, E. Gunderson, J. Gunderson, Halvorson, Hand, Hansen, Harper, Harrington, Hirsch, Holmes, Huennekens, Hurwitz, Jensen, Johnston, Kanduch, Kenny, Kessler, Keyser, Kimble, Kropp, Kvaalen, Lien, Lory, Lund, McLane, Manuel, Meloy, Menahan, Metcalf, Meyer, Moore, Mular, Nathe, O'Connell, O'Keefe, Pistoria, Porter, Quilici, Ramirez, Robbins, Roth, Ryan, Scully, Seifert, Severson, Shelden, Sivertsen, Smith, South, Staigmiller, Stobie, Teague, Tower, Tropila, Turner, Underdal, Vincent, Vinger, Waldron, Williams, Wood, Wyrick, Mr. Speaker.
Total 95

Noes: None.
Total 0

Excused: Kennerly, Marks, Palmer, Uhde.
Total 4

Absent or not voting: Lynch.
Total 1

Senate Bill No. 231 was concurred in by the following vote:

Ayes: Aageson, R. Baeth, W. Baeth, Bardanouve, Barrett, Bengtson, Bertelsen, Bradley, Brand, Burnett, Colburn, Conroy, Cooney, Courtney, Cox, Curtiss, Dassinger, Davis, Day, Dussault, Ellerd, Ellis, Ellison, Ernst, Estenson, Eudaily, Fabrega, Fagg, Feda, Frates, Gerke, Gilligan, Gould, E. Gunderson, J. Gunderson, Halvorson, Hand, Hansen, Harper, Harrington, Hirsch, Holmes, Huennekens, Hurwitz, Jensen, Johnston, Kanduch, Kenny, Kessler, Keyser, Kimble, Kropp, Kvaalen, Lien, Lory, Lund, Lynch, McLane, Manuel, Meloy, Menahan, Metcalf, Meyer, Moore, Mular, Nathe, O'Connell, O'Keefe, Pistoria, Porter, Quilici, Ramirez, Robbins, Roth, Ryan, Scully, Seifert, Severson, Shelden, Sivertsen, Smith, South, Staigmiller, Stobie, Teague, Tower, Tropila, Turner, Underdal, Vincent, Vinger, Waldron, Williams, Wood, Wyrick, Mr. Speaker.
Total 96

Noes: None.
Total 0

Excused: Kennerly, Marks, Palmer, Uhde.
Total 4

Absent or not voting: None.
Total 0

Senate Bill No. 241 was concurred in by the following vote:

Ayes: Aageson, R. Baeth, W. Baeth, Bardanouve, Barrett, Bengtson, Bertelsen, Bradley, Brand, Burnett, Colburn, Conroy, Cooney, Courtney, Cox, Curtiss, Dassinger, Davis, Day, Dussault, Ellerd, Ellis, Ellison, Ernst, Estenson, Eudaily, Fabrega, Fagg, Feda, Frates, Gerke, Gilligan, Gould, E. Gunderson, J. Gunderson, Halvorson, Hand, Hansen, Harper, Hirsch, Holmes, Huennekens, Hurwitz, Jensen, Johnston, Kanduch, Kenny, Kessler, Keyser, Kimble, Kropp, Kvaalen, Lien, Lory, Lund,

SENATE BILL NO. 203

INTRODUCED BY DUNKLE

A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE THE PENALTIES FOR FISH AND GAME VIOLATIONS; AMENDING SECTIONS 26-315, 26-319, 26-324, 26-812, AND 26-1211, ~~AND 95-2206~~, R.C.M. 1947; ~~AND CREATING A POINT SYSTEM FOR LICENSE REVOCATION~~."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 26-324, R.C.M. 1947, is amended to read as follows:

"26-324. ~~Penalty~~ Penalties. ~~(1)~~ A person violating any provision of Title 26, any other state law pertaining to fish and game ~~thereto~~, or the orders, or rules, ~~and regulations~~ of the commission is, unless a different punishment is expressly provided by law for the violation, guilty of a misdemeanor and shall be fined not less than ~~twenty-five dollars ($25) nor~~ $50 or more than ~~five hundred dollars ($500)~~, or imprisoned in the county jail for not ~~less than 2 days or~~ more than ~~six (6)~~ months, or both ~~fined and imprisoned~~. In addition, the person shall, ~~in the discretion of the court, forfeit~~ be subject to forfeiture of his license and privilege to hunt, fish, or trap within this state ~~for a period of sixteen (16) months from the date of~~ conviction ~~according to the point system in [sections 7 and 8 of this act]~~ FOR A PERIOD OF ~~16~~ NOT LESS THAN 24 MONTHS FROM THE DATE OF CONVICTION.

~~(2)~~ (a) A person convicted of unlawfully taking, killing, possessing, transporting, or wasting of a bighorn sheep, moose, WILD BISON, CARIBOU, MOUNTAIN GOAT, or grizzly bear or any part of these animals shall be fined not less than $500 or more than $1,000, imprisoned in the county jail for not ~~less than 5 days or~~ more than 6 months, or both. In addition, that person shall forfeit any current hunting, fishing, or trapping license issued by this state and the privilege to hunt, fish, or trap in this state for ~~24~~ NOT LESS THAN 30 months FROM THE DATE OF CONVICTION.

(b) A person convicted of unlawfully taking, killing, possessing, OR transporting ~~or wasting of~~ a deer, antelope, ~~wild buffalo, caribou, mountain goat,~~ elk, mountain lion, or black bear or any part of these animals, OR WASTING A DEER, ANTELOPE, OR ELK, shall be fined not less than $300 or more than $1,000, imprisoned in the county jail for not ~~less than 5 days or~~ more than 6 months, or both. In addition, that person shall forfeit any current hunting, fishing, or trapping license issued by this state and the privilege to hunt, fish, or trap in this state for ~~16~~ NOT LESS THAN 24 months FROM THE DATE OF CONVICTION.

(c) A person convicted of unlawfully attempting to

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trap, take, shoot, or kill a game animal shall be fined not less than $200 or more than $600, imprisoned in the county jail for not ~~less than 2 days or~~ more than 60 days, or both.

(D) A PERSON CONVICTED OF UNLAWFULLY TAKING, KILLING, POSSESSING, TRANSPORTING, SHIPPING, LABELING, PACKAGING, OR WASTING OR UNLAWFULLY ATTEMPTING TO TAKE, KILL, OR POSSESS ANY GAME BIRD, WILD TURKEY, FISH, OR FUR-BEARING ANIMAL OR ANY PART OF ANY SUCH ANIMAL OR FISH OR OF FAILURE TO TAG A GAME ANIMAL OR GAME BIRD AS PRESCRIBED BY LAW SHALL BE FINED NOT LESS THAN $50 OR MORE THAN $200 OR IMPRISONED IN THE COUNTY JAIL FOR NOT MORE THAN 30 DAYS, OR BOTH.

~~(d)~~(E) A person convicted of hunting, fishing or trapping while his license is forfeited or his privilege denied shall be imprisoned in the county jail for not less than 5 days or more than 6 months. In addition that person may be fined not less than $500 or more than $1,000.

~~(3) No fine or penalty established in this section may be suspended, deferred, or reduced.~~

~~(4) When a person is convicted of a violation of any provision of Title 26, any other state law pertaining to fish and game, or any order or rule of the commission, the clerk of court shall send notice, within 10 days of the action to the commission.~~"

~~Section 2. Section 95-2206, R.C.M. 1947, is amended to read as follows:~~

~~"95-2206. Sentence. Whenever any person has been found guilty of a crime or offense upon a verdict or a plea of guilty the court may:~~

~~(1) defer imposition of sentence for a period not to exceed one (1) year for any misdemeanor, except as provided in 26-324, and for a period not to exceed three (3) years for any felony. The sentencing judge may impose upon the defendant any reasonable restrictions or conditions during the period of the deferred imposition. Such reasonable restrictions or conditions may include:~~

~~(a) jail base release;~~

~~(b) jail time not to exceed ninety (90) days;~~

~~(c) conditions for probation;~~

~~(d) restitution;~~

~~(e) any other reasonable conditions deemed necessary for rehabilitation or for the protection of society;~~

~~(f) any combination of the above.~~

~~(2) Suspend execution of sentence up to the maximum sentence allowed for the particular offense, except as provided in 26-324. The sentencing judge may impose on the defendant any reasonable restrictions during the period of suspended sentence. Such reasonable restrictions may include:~~

~~(a) jail base release;~~

~~(b) jail time not to exceed (90) days;~~

~~(c)--conditions-for-probation;~~

~~(d)--restitution;~~

~~(e)--any-other-reasonable-conditions--deemed--necessary for-rehabilitation-or-for-the-protection-of-society;~~

~~(f)--any-combination-of-the-above.~~

~~If--any--restrictions--or--conditions-are-violated,-any elapsed-time,-except--jail--time,--shall--not--be--a--credit against--the--sentence,--unless--the--court--shall-otherwise order.~~

~~(3)--Impose-a-fine-as-provided-by-law-for-the--offense.~~

~~(4)--Commit-the-defendant-to-a-correctional-institution with-or-without-fine-by-law-for-the-offense.~~

~~(5)--Impose-any-combination-of-subsections-(2),-(3),-or (4)-above.~~

~~(6)--The--district--court--may--also--impose-any-of-the following-restrictions-or-conditions-on-the--above--sentence which---it--deems--necessary--to--obtain--the--objective--of rehabilitation-and-the-protection-of-society:~~

~~(a)--prohibit-the-defendant-the-right--to--hold--public office;~~

~~(b)--prohibit-the-defendant-the-right-to-own-or-carry-a dangerous-weapon;~~

~~(c)--prohibit-freedom-of-association;~~

~~(d)--prohibit-freedom-of-movement;~~

~~(e)--any--other--limitation--reasonably--related-to-the~~

~~objectives-of-rehabilitation-or-the-protection-of-society.~~

~~(7)--The-judge-in-the-justice-court-shall-not-have--the authority--to--restrict-an-individual's-rights-as-enumerated in-subsection-(6).~~

~~Any-judge-who-has-suspended-the-execution-of-a-sentence or-deferred-the-imposition-of--a--sentence--of--imprisonment under---this---section,--or--his--successor,--is--authorized thereafter,-in-his-discretion,-during--the--period--of--such suspended--sentence--or--deferred--imposition-of-sentence-to revoke-such-suspension-or-impose--sentence--and--order--such person--committed,--or--may,--in--his--discretion,-order-the prisoner-placed-under-the-jurisdiction-of-the-state-board-of pardons-as-provided-by-law,-or-retain-such-jurisdiction-with this-court.-Prior-to-the-revocation-of-an--order--suspending or-deferring-the-imposition-of-sentence,-the-person-affected shall-be-given-a-hearing."~~

Section 2. Section 26-315, R.C.M. 1947, is amended to read as follows:

"26-315. Taking deer within boundaries of cities or towns unlawful ---penalty. It ~~shall-be~~ is unlawful to shoot, kill, take, or cause to be shot, killed, taken or captured, or to attempt to shoot, kill, take or capture, any deer within the boundaries of any incorporated or unincorporated city or town of this state.

~~Any-person-violating-the-provisions-of-this--act--shall~~

~~be--guilty--of--a--misdemeanor,--and-upon-conviction-thereof shall-be-punished-by-a-fine-of--not--less--than--twenty-five dollars--($25)-nor-more-than-five-hundred-dollars-($500),-or by-imprisonment-in-the-county-jail-for-a-period-of-not--less than--ten--(10)--days--nor--more-than-one-hundred-and-eighty (180)-days,-or-by-both-such-fine-and--imprisonment,--and--in addition-thereto-shall-forfeit-his-fish-and-game-license-for a-period-of-one-(1)-year.~~"

Section 3. Section 26-319, R.C.M. 1947, is amended to read as follows:

"26-319. ~~Penalty-for-violating~~ UNLAWFUL TO HUNT DURING closed season on certain game birds -- power of commission to open season. It ~~shall-hereafter~~ is be unlawful for any person to hunt, shoot, kill, capture, possess, or cause to be hunted, killed, or captured or ~~attempts~~ attempt to shoot, kill, or capture any quail, Chinese or Mongolian pheasants, commonly called ringneck pheasants, Hungarian partridge, chukar partridge, sage grouse, sharptailed grouse, blue grouse, fool hen, prairie chicken, ruffed grouse, ptarmigan, or wild turkey until such time as the commission shall provide an open season on any quail, Chinese or Mongolian pheasants, commonly called ringneck pheasant, Hungarian partridge, chukar partridge, sage grouse, sharptailed grouse, blue grouse, fool hen, prairie chicken, ruffed grouse, ptarmigan, or wild turkey.

~~Any--person-violating-any-of-the-provisions-of-this-act or-any-person-who-has-in-his-possession-any-of-such-birds-or any-part-of-any-such-birds,-shall-be-guilty-of-a-misdemeanor and-upon-conviction-thereof-shall-be-punished-by-a--fine--of not--less--than--fifty--dollars--($50.00),-nor-more-than-two hundred-fifty-dollars-($250.00),-or-by-imprisonment--in--the county--jail-for-not-more-than-sixty-(60)-days,-or-by-[both] such-fine-and-imprisonment.~~"

Section 4. Section 26-812, R.C.M. 1947, is amended to read as follows:

"26-812. Forfeiture of license or permit for littering--~~activity-during-suspension--as--misdemeanor.~~ Any holder of a Montana resident or nonresident fishing or hunting license, or camping permit convicted of littering campgrounds, public or private lands, streams, or lakes while hunting, fishing, or camping shall forfeit his license and privilege to hunt, fish, camp, or trap within Montana for a period of ~~one-(1)~~ year from the date of conviction. ~~Any-person-who-hunts,-fishes,--camps--or--traps--in--Montana while--such-license-and-privilege-are-suspended-is-guilty-of a-misdemeanor.~~"

Section 5. Section 26-1211, R.C.M. 1947, is amended to read as follows:

"26-1211. Enforcement -- penalty -- confiscation or disposal of illegally kept animals -- appeal. (1) The

provisions of this act shall be enforced by any ~~state--fish~~ and-game warden or any other legally authorized officer. ~~Any person--violating--the--provisions--of--this-act-shall,-upon conviction,-be-punished-by-a--fine--of--not--more--than--two hundred--fifty--dollars-($250.00),-imprisonment-for-a-period of-not-more--than--ten--(10)--days,--or--both,--and--at--the discretion--of--the--court--the--permit--and--all-rights-and privileges--inherent--therein---may---be---forfeited.~~ Upon conviction--for--a-violation-of-26-1205-through-26-1212,-the permit-required-by-26-1205-through-26-1212--is--revoked--and the--privilege--to--purchase--a--permit--is-suspended-for-16 months ANY PERSON VIOLATING THE PROVISIONS OF THIS ACT SHALL, UPON CONVICTION, BE PUNISHED AS PROVIDED IN 26-324, AND AT THE DISCRETION OF THE COURT THE PERMIT AND ALL RIGHTS AND PRIVILEGES INHERENT THEREIN MAY BE FORFEITED.

(2) Any animals being kept in violation of any section of this act may be confiscated or ordered disposed of at the discretion of the ~~state--fish--and--game~~ director. The permittee may appeal to the commission within ~~twenty-(20)~~ days of the date of the order to confiscate and the commission shall hold a hearing on such an appeal and the decision of the commission shall be final."

~~Section-6.--There-is-a-new-R.C.M.-section-that-reads-as follows:~~

~~Cancellation-and-suspension-of-license-and--privileges.~~

~~(1)--For-purposes-of-this-section-and-[sections-8,-9,-and-10 of--this--act],--the--term--"license"--means--any---license, certificate,-stamp,-card,-or-permit-issued-by-the-department except-outfitters',-guides',-and-taxidermists'-licenses,-the cancellation--and--suspension--of--which--is-provided-for-in 26-919-and-26-920.~~

~~(2)--The-commission-shall-revoke-a-license-and-suspend, for-a-period-of-16-months,-the-privilege-of--purchasing--any license--and--the-benefits,-rights,-and-privileges-conferred by-any-license-if-the-holder:~~

~~(a)--has-been-convicted-of-causing-a-forest-fire;~~

~~(b)--has-been-convicted-of-fraudulent-purchase--of--any license;~~

~~(c)--has-caused-the-death-of-another-person,-though-not in-a-criminal-manner,-while-hunting;~~

~~(d)--has--illegally--taken-a-deer-within-the-boundaries of-a-city-or-town-as-prohibited-in-26-315;-or~~

~~(e)--has-been-convicted-of-violations-of-the--fish--and game--laws-of-any-state-so-as-to-have-accumulated-10-or-more points-within-any-consecutive-5-year-period,-as-indicated-in the-table-set-forth-in-[section-8].~~

~~Section-7.--There-is-a-new-R.C.M.-section-that-reads-as follows:~~

~~Point-system.--For-the-purpose-of-suspending-a--license as--provided--in--[section--7],--points-shall-be-assessed-as~~

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follows:

(1) Hunting, fishing, or trapping without a proper and valid license ..... 10 points

(2) False statement made in connection with the purchase of any license issued under this title ..... 10 points

(3) Hunting migratory waterfowl without a valid federal duck stamp in possession ..... 6 points

(4) Illegal transfer, sale, gift, loan, or assignment of any license issued under this title ..... 6 points

(5) Alteration of any license issued under this title ..... 10 points

(6) Shooting from, upon, or across a public road ..... 10 points

(7) Hunting or fishing in a closed or improper area ..... 6 points

(8) Hunting, fishing, or trapping on private property without permission of the owner ..... 3 points

(9) Hunting before or after hours ..... 3 points

(10) Use of an aircraft or a motor vehicle to take, kill, capture, wound, injure, or harass wildlife ..... 10 points

(11) Fishing with an unattended rod ..... 3 points

(12) Fishing with more than one rod ..... 3 points

(13) Hunting with an illegal weapon or unlawful method of hunting ..... 4 points

(14) Use of unlawful devices in hunting small game or

in fishing ..... 10 points

(15) Use of unlawful devices in hunting big game ..... 10 points

(16) Illegal possession of big game ..... 12 points

(17) Illegal possession of small game or fish ..... 10 points

(18) Failure to tag big game ..... 8 points

(19) Failure to have evidence of sex accompanied with wildlife when necessary ..... 6 points

(20) Waste of fish on which a bag or possession limit has been set by the commission ..... 6 points

(21) Waste of game meat ..... 10 points

(22) Hunting during a closed season ..... 6 points

(23) Refusing to produce a license or permit for inspection ..... 10 points

(24) Failure to wear hunter orange garments when required by law ..... 10 points

(25) Failure to stop at a check station ..... 10 points

(26) Building a fire in a prohibited area ..... 8 points

(27) Illegal possession of bald or golden eagle ..... 12 points

(28) Illegal possession of raptors other than a bald or golden eagle ..... 10 points

(29) Illegal possession of wildlife listed as endangered ..... 10 points

(30) failure to notify department of acquisition, loss, death, release, or transfer of raptor ..... 6 points

(31) transporting a raptor out of the state without a valid permit ..... 10 points

(32) acting as an outfitter or guide without a proper and valid license under 26-916 ..... 10 points

Section 8. There is a new RCM section that reads as follows:

Multiple violations -- notice to license agents -- renewal. (1) For more than one violation of any offense set forth in [section 8], the commission, in its discretion, shall:

(a) for a second offense, assess twice the number of points listed for the violation;

(b) for a third or subsequent offense, assess 4 times the number of points listed for the offense.

(2) A suspension of privilege under [section 7] shall be for a period not to exceed 3 years, and any person whose privilege to purchase any license has been suspended is not entitled to purchase any license issued by the department and may not apply for a renewal, reissue, duplicate, or new license until the suspension has expired.

(3) Upon suspension, the commission shall give notice of the suspension to the person whose privilege has been suspended by registered or certified mail addressed to the

last known address of such person and shall further give written notice to those individuals designated by the commission to act as license agents of the fact of such suspension and the identity of the person whose privilege has been suspended.

(4) If any person whose license has been cancelled or whose privilege to purchase any license has been suspended as provided in [section 7] is convicted of exercising or attempting to exercise the benefits conferred by the license during the period of cancellation or suspension, the commission shall renew or extend the period of cancellation or suspension for an additional period of 3 years from the date of conviction.

(5) For the purposes of license or privilege revocation or suspension, the payment of a penalty assessment under 26-324 is a conviction of the offense for which the penalty assessment was paid.

Section 9. There is a new RCM section that reads as follows:

Appeal of revocation or suspension of license or privileges. A person whose license or privilege is suspended or revoked may appeal to the district court of the county in which he resides or of Lewis and Clark County for relief.

-End-

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That House Bill No. 804 be concurred in. Opposed by Lowe.

That House Joint Resolution No. 32 be concurred in. Unanimously concurred in.

That House Joint Resolution No. 81 be concurred in. Unanimously concurred in.

That the Conference Committee Report on Senate Amendments to House Bill No. 41 be adopted. Opposed by Murray, Regan, Towe.

That House Amendments to Senate Bill No. 101 be not concurred in. Unanimously not concurred in.

That consideration of House Amendments to Senate Bill No. 203 be passed. Unanimously passed.

That House Amendments to Senate Bill No. 223 be concurred in. Unanimously concurred in.

That House Amendments to Senate Bill No. 331 be not concurred in. Unanimously not concurred in.

That the Committee rise and report. (Mehrens, Chairman)

Upon motion of Senator Mehrens, duly carried, the foregoing Report of the Committee of the Whole was adopted.

At the request of the President, and without objection, the Senate reverted to Order of Business No. 2.

REPORTS OF STANDING COMMITTEES

I have examined Senate Bill No. 5 introduced by me and find the same to be correct. (Hazelbaker)

I have examined Senate Bill No. 29 introduced by me and find the same to be correct. (Blaylock)

I have examined Senate Bill No. 41 introduced by me and find the same to be correct. (Towe)

I have examined Senate Bill No. 43 introduced by me and find the same to be correct. (Towe)

I have examined Senate Bill No. 91 introduced by me and find the same to be correct. (Lockrem)

I have examined Senate Bill No. 108 introduced by me and find the same to be correct. (Kolstad)

I have examined Senate Bill No. 115 introduced by me and find the same to be correct. (Towe)

I have examined Senate Bill No. 169 introduced by me and find the same to be correct. (Lowe)

I have examined Senate Bill No. 186 introduced by me and find the same to be correct. (Lee)

I have examined Senate Bill No. 191 introduced by me and find the same to be correct. (Hager)

I have examined Senate Bill No. 215 introduced by me and find the same to be correct. (Turnage)

jurisdiction act, the Montana rules of civil procedure apply to all proceedings under this act, except as otherwise provided in this act.

(2) A proceedings for dissolution of marriage, legal separation, or declaration of invalidity of marriage shall be entitled "In re the Marriage of and ." A custody or support proceedings shall be entitled "in re the (Custody) (Support) of ."

(3) The initial pleading in all proceedings under this act shall be denominated a petition. A responsive pleading shall be denominated a response. Other pleadings, and all pleadings in other matters under this act, shall be denominated as provided in the Montana rules of civil procedure.

(4) In this act, "decree" includes "judgment."

(5) A decree of dissolution or of legal separation, if made, shall not be awarded to one of the parties, but shall provide that it affects the status previously existing between the parties in the manner decreed.'"

And, as so amended, be concurred in. Unanimously concurred in.

That House Amendments to Senate Bill No. 203 be not concurred in. Unanimously not concurred in.

That Senate Joint Resolution No. 39 do pass. Unanimously passed.

That House Bill No. 100 be concurred in. Unanimously concurred in.

That House Bill No. 157 be concurred in. Unanimously concurred in.

That House Bill No. 177 be concurred in. Unanimously concurred in.

That House Bill No. 309 be concurred in. Unanimously concurred in.

That House Bill No. 324 be concurred in. Opposed by Bergren, Goodover, Hazelbaker, Lensink, McCallum, Mathers, Murray, Nelson, Olson, Peterson, Roskie, Turnage.

That consideration of House Bill No. 513 be passed. Unanimously passed.

That House Bill No. 541 be indefinitely postponed. Opposed by Devine, Dunkle, Fasbender, Healy, Lee, McOmber, Peterson, Roberts, Roskie, Thomas, Towe, Warden, Watt.

That the Committee rise and report. (Devine, Chairman)

At the request of the President, and without objection, the Senate reverted to Order of Business No. 2.

REPORTS OF STANDING COMMITTEES

BILLS (Warden, Chairman):
Correctly engrossed - SB 211. Report adopted.

I have examined Senate Bill No. 24 introduced by me and find the same to be correct. (Thiessen)

I have examined Senate Bill No. 49 introduced by me and find the same to be correct. (Jergeson)

I have examined Senate Bill No. 73 introduced by me and find the same to be correct. (Regan)

I have examined Senate Bill No. 79 introduced by me and find the same to be correct. (Regan)

Strike: "Titles"
Insert: "Title"

9. Amend page 6, section 8, line 16.
Following: line 15
Strike: "and XX"

10. Amend page 7, section 10, lines 11 and 12.
Following: "without"
Strike: "prior written approval"
Insert: "a certificate of need issued"

And, as so amended, be concurred in. Report adopted.

MOTIONS

Upon motion of Senator Murphy, duly carried, that consideration of House Bill Nos. 558, 584, 659, House Joint Resolution Nos. 25, 74, House Amendments to Senate Bill No. 286, Free Conference Committee Report on House Bill No. 46, and the Governor's Amendments to House Bill No. 196 on Second Reading be passed for this Legislative Day.

Upon motion of Senator Murphy, duly carried, that the President be authorized to appoint a Free Conference Committee of three to meet with a like committee from the House to confer on Senate Bill No. 203.

Upon motion of Senator Murphy, duly carried, that the President be authorized to appoint a Conference Committee of three to meet with a like committee from the House to confer on Senate Amendments to House Bill No. 352.

The President appointed the following:

Senator Regan, Chairman
Senator Lowe
Senator Towe

Upon motion of Senator Murphy, duly carried, that the President be authorized to appoint a Conference Committee of three to meet with a like committee from the House to confer on Senate Amendments to House Bill No. 664.

The President appointed the following:

Senator Boylan, Chairman
Senator Dover
Senator Bergren

UNFINISHED BUSINESS

At this time the President appointed the following Free Conference Committee on Senate Bill No. 101:

Senator Jergeson, Chairman
Senator Brown
Senator Murphy

At this time the President appointed the following Free Conference Committee on Senate Bill No. 331:

Senator Lensink, Chairman
Senator Rasmussen
Senator Peterson

Following: "(resident)" 3-28-77
Insert: "resident"

(Material in parentheses denotes cancelled type.)

MESSAGE FROM THE HOUSE OF REPRESENTATIVES

The following Joint Conference Committee Report was on 3/25/77, on Third Reading, adopted on roll call vote:

Joint Conference Committee Report on Senate Joint Resolution No. 3

MOTIONS

Motion was made by Senator Murphy that Senate Joint Resolution No. 39 be placed on Third Reading this Legislative Day. Motion carried unanimously.

Upon motion of Senator Towe, duly carried, that House Bill No. 320 be taken from the Committee on Bills and be rereferred to the Committee on Judiciary.

Upon motion of Senator Norman, duly carried, that consideration of House Bill No. 411 on Second Reading be passed for this Legislative Day.

At this time the President appointed the following Free Conference Committee on Senate Bill No. 203:

Senator Dunkle, Chairman
Senator Mehrens
Senator Regan

FIRST READING OF BILLS

The following bill was introduced, read first time and referred to committee:

HJR 93, introduced by Kimble, Meloy, Halvorson. Referred to Committee on Rules.

At the request of the President, and without objection, the Senate passed to Order of Business No. 9.

THIRD READING OF BILLS

The following bills having been read three several times, title and history agreed to, were disposed of in the following manner:

Senate Bill No. 211 was passed by the following vote:

Ayes: Bergren, Blaylock, Brown, Devine, Fasbender, Flynn, Galt, Graham, Hager, Jergeson, Kolstad, Lensink, McCallum, Mathers, Murphy, Norman, Rasmussen, Regan, Roberts, E. Smith, Thiessen, Towe, Turnage, Warden, Watt, Mr. President.
Total 26

Noes: Aber, Boylan, Dunkle, Etchart, Goodover, Hazelbaker, Healy, Himsl, Lee, Lockrem, Lowe, Manley, Mehrens, Murray, Nelson, Olson, Peterson, Roskie, R. Smith, Stephens, Story, Thomas.
Total 22

Excused: Manning.
Total 1

Absent or not voting: Dover.
Total 1

And that the Conference Committee Report to House Joint Resolution No. 68 be adopted.

FOR THE HOUSE:	FOR THE SENATE:
STAIGMILLER	DUNKLE
ELLIS	NELSON
WALDRON	MANLEY

Report adopted.

MESSAGES FROM THE OTHER HOUSE

Bills and Resolution concurred in by the Senate and returned to the House: 3/28/77

House Bill No. 305, introduced by Kessler, Cooney, et al

House Bill No. 404, introduced by Shelden

House Bill No. 742, introduced by Williams, Gerke, et al

House Joint Resolution No. 32, introduced by Kennerly, Conroy, Kimble.

Bills on Committee Report, not concurred in by the Senate, reports adopted, and returned to the House: 3/28/77

House Bill No. 633, introduced by Vincent

House Bill No. 124, introduced by Sivertsen, Robbins, Bertelsen

House Bill No. 438, introduced by Vincent, et al

House Bill No. 748, introduced by Fagg

Resolution concurred in as amended by the Senate and returned to the House: 3/28/77

House Joint Resolution No. 32, introduced by Kennerly, Conroy, Kimble

Bill and Resolution passed by the Senate and transmitted to the House for concurrence: 3/28/77

Senate Bill No. 211, introduced by Towe, Mathers, E. Smith

Senate Joint Resolution No. 39, introduced by Hazelbaker

3/28/77

Senate failed to concur in House Amendments to Senate Bill No. 286, and the President was authorized to appoint the following Conference Committee, and requests the House to appoint a like committee to confer on House Amendments to Senate Bill No. 286.

Senator Thiessen, Chairman
Senator E. Smith
Senator Jergeson

3/28/77

Senate, on 3/26/77, failed to concur in House Amendments to Senate Bill No. 203, and the President was authorized to appoint the following Free Conference Committee, and requests the House to appoint a like committee to confer on Senate Bill 203:

Senator Dunkle, Chairman
Senator Mehrens
Senator Regan

Total 95

Noes: None.
Total 0

Excused: Kennerly.
Total 1

Absent or not voting: Bardanouve, Colburn, Dussault, Manuel.
Total 4

Senate Bill No. 179 was concurred in by the following vote:

Ayes: Aageson, R. Baeth, W. Baeth, Barrett, Bengtson, Bertelsen, Brand, Burnett, Conroy, Cooney, Courtney, Cox, Dassinger, Day, Ellis, Ernst, Eudaily, Fabrega, Fagg, Gerke, Gilligan, Gould, Halvorson, Harrington, Holmes, Hurwitz, Jensen, Johnston, Kanduch, Kenny, Kessler, Kimble, Kropp, Kvaalen, Lien, Lory, Lund, Lynch, McLane, Marks, Meloy, Menahan, Metcalf, Meyer, Moore, Mular, O'Connell, O'Keefe, Palmer, Pistoria, Porter, Quilici, Ramirez, Robbins, Roth, Ryan, Seifert, Severson, Shelden, Sivertsen, Smith, South, Staigmiller, Teague, Tower, Turner, Williams, Wyrick.
Total 68

Noes: Bradley, Curtiss, Ellerd, Ellison, Estenson, Feda, Frates, E. Gunderson, J. Gunderson, Hand, Hansen, Harper, Hirsch, Huennekens, Keyser, Nathe, Scully, Stobie, Tropila, Uhde, Underdal, Vincent, Vinger, Waldron, Wood, Mr. Speaker.
Total 26

Excused: Kennerly.
Total 1

Absent or not voting: Bardanouve, Colburn, Davis, Dussault, Manuel.
Total 5

UNFINISHED BUSINESS

The Speaker appointed the following free conference committee of three to meet with a like committee from the Senate on Senate Bill 203: Staigmiller, Chairman; R. Baeth and Seifert.

The Speaker appointed the following conference committee of three to meet with a like committee from the Senate on House Amendments to Senate Bill 286: Brand, Chairman; Kanduch and Feda.

SECOND READING OF BILLS (COMMITTEE OF THE WHOLE)

Meloy moved that the House resolve itself into a Committee of the Whole, for the consideration of business on Second Reading, under the rules of the previous sitting. Motion carried.

Gerke in the Chair. Committee arose.

House resumed. Mr. Speaker in the Chair.

Mr. Speaker: We, your Committee of the Whole, having had under consideration business on Second Reading, recommend as follows:

That HB 365 be amended as follows:

1. Amend page 1, section 1, line 25.
Strike: "$10,289"
Insert: "$10,386"

REPORTS OF SELECT COMMITTEES

FREE CONFERENCE COMMITTEE ON SENATE BILL NO. 203

(Report No. 1, April 6, 1977)

MR. PRESIDENT AND SPEAKER OF THE HOUSE:

We, your Free Conference Committee on Senate Bill No. 203, met on April 4, 1977, and considered:

House Committee on Fish and Game Amendments to Senate Bill No. 203 dated March 17, 1977, and recommend as follows:

That the Senate accede to amendment nos. 1 through 7

And further, that Senate Bill No. 203, third reading bill, be amended as follows:

1. Amend title, line 6.
Following: "26-812,"
Strike: "and"
Following: "26-1211,"
Insert: "and 95-302,"

2. Amend page 14, section 9, line 23.
Following: line 23
Insert: "Section 6. Section 95-302, R.C.M. 1947, is amended to read as follows:

'95-302. Jurisdiction of the justice of the peace courts. The justices' courts have:

(a) Jurisdiction of all misdemeanors punishable by a fine not exceeding (five hundred dollars ()$500.00()) or imprisonment not exceeding (six ()6()) months, or both such fine and imprisonment, and of all violations of fish and game statutes punishable by a fine of not more than $1,000 or imprisonment for not more than 6 months, or both; excluding jurisdiction in cases commenced under the Montana Dangerous Drug Act except to act as examining and committing courts and to conduct preliminary hearings as provided in subsection (c).

(b) Concurrent jurisdiction, with district courts, of all misdemeanors punishable by a fine only, not exceeding (fifteen hundred dollars ()$1,500()); and

(c) Jurisdiction to act as examining and committing courts and for such purpose to conduct preliminary hearings.'"

(Material in parentheses denotes cancelled type.)

And, that the Free Conference Committee Report on Senate Bill No. 203 be adopted.

FOR THE SENATE:	FOR THE HOUSE:
Dunkle, Chairman	Staigmiller, Chairman
	R. Baeth
Mehrens	Seifert

Report adopted.

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2nd Reading - Committee of Whole

That House Bill No. 654 be amended as follows:

1. Amend page 2, section 1, lines 18 and 19.
Following: "for"
Strike: "this purpose"
Insert: "evaluation of any youth in need of supervision"

2. Amend page 3, section 1, lines 6 and 7.
Following: "director"
Strike: "provided that a detention facility may not be used for this purpose"

3. Amend page 5, section 2, line 7.
Following: line 6
Strike: "evaluations"
Insert: "evaluation of any youth in need of supervision"

And, as so amended, be concurred in. Unanimously concurred in.

That the House Amendments to Senate Bill No. 37 be not concurred in. Unanimously not concurred in.

That the Free Conference Committee Report on Senate Bill No. 203 be adopted. Opposed by Blaylock, Devine, Etchart, Flynn, Goodover, Jergeson, Lensink, McOmber, Rasmussen, Regan, R. Smith, Thiessen, Towe, Watt.

That the Committee rise and report. (Peterson, Chairman)

Upon motion of Senator Peterson, duly carried, the foregoing Report of the Committee of the Whole was adopted.

At the request of the President, and without objection, the Senate reverted to Order of Business No. 6.

MOTIONS

Upon motion of Senator Brown, duly carried, that Senate Resolution No. 8 be taken from the Committee on Rules and be placed on Second Reading, April 9.

Upon motion of Senator Dunkle, duly carried, that Senate Resolution No. 5 be taken from the Committee on Rules and be placed on Second Reading, April 9.

Upon motion of Senator Turnage, duly carried, that House Bill No. 654 be taken from the Committee on Bills and be rereferred to the Committee on Finance and Claims.

At the request of the President, and without objection, the Senate reverted to Order of Business No. 2.

REPORTS OF STANDING COMMITTEES

STATE ADMINISTRATION (Towe, Chairman):
SB 449 do pass. Report adopted.

JUDICIARY (Turnage, Chairman):
HB 355, third reading bill, be amended as follows:

1. Amend title, line 6.
Following: line 5
Strike: "providing for a driver rehabilitation advisory council;"

2. Amend page 3, section 3, line 24 through line 16 on page 4.
Following: line 23

58

Senator Towe moved that the appointment of Dr. Robert Wambach to serve at the pleasure of the Governor as Director of Fish and Game be considered first on Special Orders of the Day this Legislative Day. Motion carried unanimously.

At the request of the President, and without objection the Senate passed to Order of Business No. 9.

THIRD READING OF BILLS

The following bills having been read three several times, title and history agreed to, were disposed of in the following manner:

Free Conference Committee Report on Senate Bill No. 203 was passed by the following vote:

Ayes: Aber, Bergren, Blaylock, Boylan, Brown, Devine, Dover, Dunkle, Etchart, Fasbender, Flynn, Galt, Goodover, Hager, Hazelbaker, Healy, Himsl, Kolstad, Lee, Lensink, Lockrem, Lowe, McCallum, Manley, Manning, Mathers, Murphy, Murray, Nelson, Olson, Peterson, Rasmussen, Roberts, Roskie, E. Smith, R. Smith, Stephens, Thiessen, Thomas, Towe, Turnage, Warden, Watt, Mr. President.
Total 44

Noes: Jergeson, Regan.
Total 2

Excused: Graham, Norman, Story.
Total 3

Absent or not voting: Mehrens.
Total 1

Senate Joint Resolution No. 44 was passed by the following vote:

Ayes: Blaylock, Brown, Dunkle, Fasbender, Flynn, Galt, Goodover, Hager, Healy, Jergeson, Lee, Lensink, Lowe, Manning, Murphy, Peterson, Rasmussen, Regan, Roberts, Roskie, E. Smith, R. Smith, Thiessen, Thomas, Towe, Turnage, Warden, Watt, Mr. President.
Total 29

Noes: Aber, Bergren, Boylan, Devine, Dover, Etchart, Hazelbaker, Himsl, Kolstad, Lockrem, McCallum, Manley, Mathers, Murray, Nelson, Olson, Stephens.
Total 17

Excused: Graham, Norman, Story.
Total 3

Absent or not voting: Mehrens.
Total 1

At the request of the President, and without objection, the Senate reverted to Order of Business No. 8.

SECOND READING OF BILLS
(COMMITTEE OF THE WHOLE)

Senator Etchart in the Chair. Committee arose.

Senate resumed. President McOmber in the Chair.

Mr. President: We, your Committee of the Whole, having had under consideration business on Second Reading, recommend as follows:

That Senate Joint Resolution No. 47 be indefinitely postponed. Opposed

2nd Reading - Committee of Whole 4-11-77

Kvaalen in the Chair. Committee arose.

House resumed. Mr. Speaker in the Chair.

Mr. Speaker: We, your Committee of the Whole, having had under consideration business on Second Reading, recommend as follows:

That the Conference Committee Report on HJR 21 be adopted. (84-0)

That the Conference Committee Report on HJR 68 be adopted. (91-1)

That the Conference Committee Report on HB 41 be adopted. (88-2)

That the Conference Committee Report on HB 125 be adopted. (82-7)

That the Conference Committee Report on HB 126 be adopted. (87-0)

That the Conference Committee Report on HB 352 be adopted. (87-0)

That the Conference Committee Report on HB 612 be passed for the day.

That the Conference Committee Report on HB 664 be adopted. (83-1)

That the Conference Committee Report on SB 26 be adopted. (87-0)

That the Conference Committee Report on SB 203 be adopted. (83-4)

That the Conference Committee Report on SB 286 be placed below Governor's Amendments to HB 370.

That the Conference Committee Report on SB 331 be adopted. (84-2)

That SA to HB 148 be concurred in. (92-0)

That the Governor's Amendments to SB 199 be not concurred in. (70-23)

That the Governor's Amendments to SB 269 be passed for the day.

That the Governor's Amendments to HB 178 be concurred in. (77-12)

That the Governor's Amendments to HB 301 be concurred in. (90-2)

That the Governor's Amendments to HB 370 be concurred in. (91-3)

That the Conference Committee Report on SB 286 be adopted. (90-4)

That HB 446 be passed for the day.

That HJR 100 do pass. (83-1)

That HR 3 be adopted. (85-0)

That SB 93 be concurred in. (85-1)

That SB 167 be passed for the day.

That SB 239 be concurred in. (86-0)

That SB 421 be concurred in. (87-1)

6

Total 95

Noes: None.
Total 0

Excused: Brand, Davis, Gerke.
Total 3

Absent or not voting: Colburn, Roth.
Total 2

The Conference Committee Report on Senate Bill No. 26 was adopted by the following vote:

Ayes: Aageson, R. Baeth, W. Baeth, Bardanouve, Barrett, Bengtson, Bertelsen, Bradley, Burnett, Conroy, Cooney, Courtney, Cox, Curtiss, Dassinger, Day, Dussault, Ellerd, Ellis, Ellison, Ernst, Estenson, Eudaily, Fabrega, Fagg, Feda, Frates, Gilligan, Gould, E. Gunderson, J. Gunderson, Halvorson, Hand, Hansen, Harper, Harrington, Hirsch, Holmes, Huennekens, Hurwitz, Jensen, Johnston, Kanduch, Kennerly, Kenny, Kessler, Keyser, Kimble, Kropp, Kvaalen, Lien, Lory, Lund, Lynch, McLane, Manuel, Marks, Meloy, Menahan, Metcalf, Meyer, Moore, Mular, Nathe, O'Connell, O'Keefe, Palmer, Pistoria, Porter, Quilici, Ramirez, Robbins, Roth, Ryan, Scully, Seifert, Severson, Shelden, Sivertsen, Smith, South, Staigmiller, Stobie, Teague, Tower, Tropila, Turner, Uhde, Underdal, Vincent, Vinger, Waldron, Williams, Wood, Wyrick, Mr. Speaker.
Total 96

Noes: None.
Total 0

Excused: Brand, Davis, Gerke.
Total 3

Absent or not voting: Colburn.
Total 1

The Conference Committee Report on Senate Bill No. 203 was adopted by the following vote:

Ayes: Aageson, R. Baeth, W. Baeth, Bardanouve, Barrett, Bengtson, Bertelsen, Bradley, Burnett, Conroy, Cooney, Courtney, Cox, Curtiss, Dassinger, Day, Dussault, Ellerd, Ellis, Ellison, Ernst, Estenson, Fabrega, Fagg, Feda, Frates, Gilligan, Gould, E. Gunderson, J. Gunderson, Halvorson, Hand, Hansen, Harper, Harrington, Hirsch, Holmes, Huennekens, Hurwitz, Jensen, Johnston, Kanduch, Kennerly, Kessler, Kimble, Kropp, Kvaalen, Lien, Lory, Lund, Lynch, McLane, Manuel, Marks, Meloy, Menahan, Metcalf, Meyer, Moore, Mular, O'Connell, O'Keefe, Palmer, Pistoria, Porter, Quilici, Ramirez, Seifert, Severson, Shelden, Sivertsen, Smith, South, Staigmiller, Tropila, Turner, Uhde, Underdal, Vincent, Waldron, Williams, Wood, Wyrick, Mr. Speaker.
Total 84

Noes: Kenny, Keyser, Nathe, Robbins, Roth, Ryan, Stobie, Teague, Vinger.
Total 9

Excused: Brand, Davis, Gerke.
Total 3

Absent or not voting: Colburn, Eudaily, Scully, Tower.
Total 4

Representative Harper, Chairman
Representative Shelden
Representative Ellis

The House respectfully requests the Senate to appoint a like committee.

The House, this day, failed to confer in Senate Amendments to House Bill No. 29. The Speaker was authorized to appoint a Free Conference Committee.

The Speaker appointed the following members:

Representative Bengston, Chairman
Representative Uhde
Representative Marks

The House respectfully requests the Senate to appoint a like committee.

The House, this day, failed to confer in Senate Amendments to House Bill No. 735. The Speaker was authorized to appoint a Free Conference Committee.

The Speaker appointed the following members:

Representative Williams, Chairman
Representative Huennekens
Representative Feda

The House respectfully requests the Senate to appoint a like committee.

The following Free Conference Committee Reports were this day, on Third Reading, adopted on roll call vote:

Free Conference Committee Report on Senate Bill No. 26

Free Conference Committee Report on Senate Bill No. 203

Free Conference Committee Report on Senate Bill No. 331

Free Conference Committee Report on House Joint Resolution No. 21

Free Conference Committee Report on House Bill No. 125

Free Conference Committee Report on House Bill No. 664

The following Joint Conference Committee Reports were this day, on Third Reading, adopted on roll call vote:

Joint Conference Committee Report on House Amendments to Senate Bill No. 286

Joint Conference Committee Report on Senate Amendments to House Joint Resolution No. 68

Joint Conference Committee Report on House Bill No. 41

Joint Conference Committee Report on House Bill No. 126

Joint Conference Committee Report on House Bill No. 352

Concurred in and returned to the Senate:

Senate Bill No. 413, introduced by Towe

Transmitted to the Senate for concurrence:

House Bill No. 178, introduced by Harrington, Quilici, et al

Bill, on 4/7/77, concurred in as amended
by the Senate and returned to the House
for concurrence in Senate Amendments: 4/11/77

House Bill No. 491, introduced by Hansen (by request)

Resolutions passed by the Senate and transmitted
to the House for concurrence: 4/11/77

Senate Joint Resolution No. 48, introduced by Graham (by request)

Senate Joint Resolution No. 49, introduced by Dover, Story, Galt, et al

4/11/77

Free Joint Conference Committee Report on Senate Bill No. 203 was adopted by the Senate on roll call vote.

MOTIONS

Vincent moved that consideration of House Bill 31 be postponed until the 86th Legislative Day. Motion carried.

Gerke moved that the House reconsider its action in not concurring in the Governor's Amendments on SB 199 on Second Reading. Motion carried.

Meloy moved that SB 448 be rereferred from the Committee on Education to the Committee on Rules. Motion carried.

Meloy moved that the rules be suspended for introduction of a bill to correct an engrossing error. Motion carried.

Meloy moved that the rules be suspended to permit the introduction of SB 166 (refer to the Committee on Labor and Employment Relations) and SB 447 (refer to the Committee on Education). Ryan requested the motion be divided. Thereupon the motion carried on SB 166. Lacking ⅔ majority, the motion failed on SB 447.

Huennekens moved that SB 206 be rereferred from the Committee on Business and Industry to Second Reading and that the ayes and noes be spread upon the journal. Sufficient seconds arose. Tropila moved to lay Huennekens' motion on the table. The Speaker ruled Tropila's motion out of order as Huennekens' motion was a procedural motion. Lien moved the previous question. Thereupon Huennekens' motion failed by the following roll call vote:

Ayes: Bardanouve, Bengtson, Bradley, Day, Dussault, Estenson, Fabrega, Fagg, Frates, E. Gunderson, Harper, Hirsch, Huennekens, Kessler, Lien, Manuel, Meloy, Metcalf, Moore, Palmer, Porter, Ramirez, South, Tower, Turner, Uhde, Underdal, Vincent, Waldron, Williams.
Total 30

Noes: Aageson, R. Baeth, W. Baeth, Barrett, Bertelsen, Brand, Colburn, Conroy, Cooney, Courtney, Cox, Curtiss, Dassinger, Ellis, Ellison, Ernst, Eudaily, Feda, Gilligan, Gould, J. Gunderson, Halvorson, Hand, Hansen, Harrington, Holmes, Hurwitz, Jensen, Johnston, Kanduch, Kennerly, Kenny, Keyser, Kimble, Kropp, Kvaalen, Lory, Lynch, McLane, Marks, Menahan, Meyer, Mular, Nathe, O'Connell, O'Keefe, Pistoria, Quilici, Robbins, Roth, Ryan, Scully, Seifert, Severson, Shelden, Sivertsen, Smith, Staigmiller, Stobie, Teague, Tropila, Vinger, Wyrick, Mr. Speaker.
Total 64

Excused: Davis, Lund, Wood.

SB 0203/04

SENATE BILL NO. 203

INTRODUCED BY DUNKLE

A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE THE PENALTIES FOR FISH AND GAME VIOLATIONS; AMENDING SECTIONS 26-315, 26-319, 26-324, 26-812, ~~AND~~ 26-1211, AND 95-302, ~~AND 95-2206~~, R.C.M. 1947~~, AND CREATING A POINT SYSTEM FOR LICENSE REVOCATION~~."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 26-324, R.C.M. 1947, is amended to read as follows:

"26-324. ~~Penalty~~ Penalties. ~~(1)~~ A person violating any provision of Title 26, any other state law pertaining to fish and game ~~thereto~~, or the orders, or rules, ~~and regulations~~ of the commission is, unless a different punishment is expressly provided by law for the violation, guilty of a misdemeanor and shall be fined not less than ~~twenty-five dollars ($25) nor~~ $50 or more than ~~five hundred dollars ($500)~~, ~~or~~ imprisoned in the county jail for not ~~less than 2 days or~~ more than ~~six (6)~~ months, or both ~~fined and imprisoned~~. In addition, the person shall, ~~in the discretion of the court, forfeit~~ be subject to forfeiture of his license and privilege to hunt, fish, or trap within this state ~~for a period of sixteen (16) months from the date of conviction according to the point system in [sections 7 and 8 of this act]~~ FOR A PERIOD OF ~~16~~ NOT LESS THAN 24 MONTHS FROM THE DATE OF CONVICTION.

(2) (a) A person convicted of unlawfully taking, killing, possessing, transporting, or wasting of a bighorn sheep, moose, WILD BISON, CARIBOU, MOUNTAIN GOAT, or grizzly bear or any part of these animals shall be fined not less than $500 or more than $1,000, imprisoned in the county jail for not ~~less than 5 days or~~ more than 6 months, or both. In addition, that person shall forfeit any current hunting, fishing, or trapping license issued by this state and the privilege to hunt, fish, or trap in this state for ~~24~~ NOT LESS THAN 30 months FROM THE DATE OF CONVICTION.

(b) A person convicted of unlawfully taking, killing, possessing, OR transporting ~~or wasting of~~ a deer, antelope, ~~wild buffalo, caribou, mountain goat,~~ elk, mountain lion, or black bear or any part of these animals, OR WASTING A DEER, ANTELOPE, OR ELK, shall be fined not less than $300 or more than $1,000, imprisoned in the county jail for not ~~less than 5 days or~~ more than 6 months, or both. In addition, that person shall forfeit any current hunting, fishing, or trapping license issued by this state and the privilege to hunt, fish, or trap in this state for ~~16~~ NOT LESS THAN 24 months FROM THE DATE OF CONVICTION.

(c) A person convicted of unlawfully attempting to

trap, take, shoot, or kill a game animal shall be fined not less than $200 or more than $600, imprisoned in the county jail for not ~~less than 2 days or~~ more than 60 days, or both.

(D) A PERSON CONVICTED OF UNLAWFULLY TAKING, KILLING, POSSESSING, TRANSPORTING, SHIPPING, LABELING, PACKAGING, OR WASTING OR UNLAWFULLY ATTEMPTING TO TAKE, KILL, OR POSSESS ANY GAME BIRD, WILD TURKEY, FISH, OR FUR-BEARING ANIMAL OR ANY PART OF ANY SUCH ANIMAL OR FISH OR OF FAILURE TO TAG A GAME ANIMAL OR GAME BIRD AS PRESCRIBED BY LAW SHALL BE FINED NOT LESS THAN $50 OR MORE THAN $200 OR IMPRISONED IN THE COUNTY JAIL FOR NOT MORE THAN 30 DAYS, OR BOTH.

~~(d)~~(E) A person convicted of hunting, fishing or trapping while his license is forfeited or his privilege denied shall be imprisoned in the county jail for not less than 5 days or more than 6 months. In addition that person may be fined not less than $500 or more than $1,000.

~~(3) No fine or penalty established in this section may be suspended, deferred, or reduced.~~

~~(4) When a person is convicted of a violation of any provision of Title 26, any other state law pertaining to fish and game, or any order or rule of the commission, the clerk of court shall send notice, within 10 days of the action, to the commission.~~"

~~Section 2. Section 95-2206, R.C.M. 1947, is amended to read as follows:~~

~~"95-2206. Sentence. When whenever any person has been found guilty of a crime or offense upon a verdict or a plea of guilty the court may:~~

~~(1) defer imposition of sentence for a period not to exceed one (1) year for any misdemeanor, except as provided in 26-324, and for a period not to exceed three (3) years for any felony. The sentencing judge may impose upon the defendant any reasonable restrictions or conditions during the period of the deferred imposition. Such reasonable restrictions or conditions may include:~~

~~(a) jail base release;~~

~~(b) jail time not to exceed ninety (90) days;~~

~~(c) conditions for probation;~~

~~(d) restitution;~~

~~(e) any other reasonable conditions deemed necessary for rehabilitation or for the protection of society;~~

~~(f) any combination of the above.~~

~~(2) Suspend execution of sentence up to the maximum sentence allowed for the particular offense, except as provided in 26-324. The sentencing judge may impose on the defendant any reasonable restrictions during the period of suspended sentence. Such reasonable restrictions may include:~~

~~(a) jail base release;~~

~~(b) jail time not to exceed (90) days;~~

~~(c)--conditions-for-probation;~~

~~(d)--restitution;~~

~~(e)--any--other--reasonable-conditions-deemed-necessary for-rehabilitation-or-for-the-protection-of-society;~~

~~(f)--any-combination-of-the-above.~~

~~If-any-restrictions-or-conditions--are--violated,--any elapsed--time,--except--jail--time,--shall--not--be-a-credit against-the--sentence,--unless--the--court--shall--otherwise order.~~

~~(3)--Impose--a-fine-as-provided-by-law-for-the-offense.~~

~~(4)--Commit-the-defendant-to-a-correctional-institution with-or-without-fine-by-law-for-the-offense.~~

~~(5)--Impose-any-combination-of-subsections-(2),-(3),-or (4)-above.~~

~~(6)--The-district-court-may--also--impose--any--of--the following--restrictions--or-conditions-on-the-above-sentence which--it--deems--necessary--to--obtain--the--objective---of rehabilitation-and-the-protection-of-society;~~

~~(a)--prohibit--the--defendant--the-right-to-hold-public office;~~

~~(b)--prohibit-the-defendant-the-right-to-own-or-carry-a dangerous-weapon;~~

~~(c)--prohibit-freedom-of-association;~~

~~(d)--prohibit-freedom-of-movement;~~

~~(e)--any-other-limitation--reasonably--related--to--the~~

~~objectives-of-rehabilitation-or-the-protection-of-society.~~

~~(7)--The--judge-in-the-justice-court-shall-not-have-the authority-to-restrict-an-individual's-rights--as--enumerated in-subsection-(6).~~

~~Any-judge-who-has-suspended-the-execution-of-a-sentence or--deferred--the--imposition--of-a-sentence-of-imprisonment under--this--section,--or--his--successor---is---authorized thereafter,--in--his--discretion,--during-the-period-of-such suspended-sentence-or-deferred--imposition--of--sentence--to revoke--such--suspension--or--impose-sentence-and-order-such person-committed,-or--may,--in--his--discretion,--order--the prisoner-placed-under-the-jurisdiction-of-the-state-board-of pardons-as-provided-by-law,-or-retain-such-jurisdiction-with this--court.--Prior-to-the-revocation-of-an-order-suspending or-deferring-the-imposition-of-sentence,-the-person-affected shall-be-given-a-hearing.~~"

Section 2. Section 26-315, R.C.M. 1947, is amended to read as follows:

"26-315. Taking deer within boundaries of cities or towns unlawful ~~---penalty~~. It ~~shall be~~ is unlawful to shoot, kill, take, or cause to be shot, killed, taken or captured, or to attempt to shoot, kill, take or capture, any deer within the boundaries of any incorporated or unincorporated city or town of this state.

~~Any--person--violating-the-provisions-of-this-act-shall~~

~~be guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not less than twenty-five dollars ($25) nor more than five hundred dollars ($500), or by imprisonment in the county jail for a period of not less than ten (10) days nor more than one hundred and eighty (180) days, or by both such fine and imprisonment, and in addition thereto shall forfeit his fish and game license for a period of one (1) year.~~"

Section 3. Section 26-319, R.C.M. 1947, is amended to read as follows:

"26-319. ~~Penalty for violating~~ UNLAWFUL TO HUNT DURING closed season on certain game birds -- power of commission to open season. It ~~shall hereafter~~ is be unlawful for any person to hunt, shoot, kill, capture, possess, or cause to be hunted, killed, or captured or ~~attempts~~ attempt to shoot, kill, or capture any quail, Chinese or Mongolian pheasants, commonly called ringneck pheasants, Hungarian partridge, chukar partridge, sage grouse, sharptailed grouse, blue grouse, fool hen, prairie chicken, ruffed grouse, ptarmigan, or wild turkey until such time as the commission shall provide an open season on any quail, Chinese or Mongolian pheasants, commonly called ringneck pheasant, Hungarian partridge, chukar partridge, sage grouse, sharptailed grouse, blue grouse, fool hen, prairie chicken, ruffed grouse, ptarmigan, or wild turkey.

~~Any person violating any of the provisions of this act or any person who has in his possession any of such birds or any part of any such birds, shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not less than fifty dollars ($50.00), nor more than two hundred fifty dollars ($250.00), or by imprisonment in the county jail for not more than sixty (60) days, or by [both] such fine and imprisonment.~~"

Section 4. Section 26-812, R.C.M. 1947, is amended to read as follows:

"26-812. Forfeiture of license or permit for littering ~~activity during suspension as misdemeanor~~. Any holder of a Montana resident or nonresident fishing or hunting license, or camping permit convicted of littering campgrounds, public or private lands, streams, or lakes while hunting, fishing, or camping shall forfeit his license and privilege to hunt, fish, camp, or trap within Montana for a period of ~~one (1)~~ year from the date of conviction. ~~Any person who hunts, fishes, camps or traps in Montana while such license and privilege are suspended is guilty of a misdemeanor.~~"

Section 5. Section 26-1211, R.C.M. 1947, is amended to read as follows:

"26-1211. Enforcement -- penalty -- confiscation or disposal of illegally kept animals -- appeal. (1) The

provisions of this act shall be enforced by any ~~state fish and game~~ warden or any other legally authorized officer. ~~Any person violating the provisions of this act shall, upon conviction, be punished by a fine of not more than two hundred fifty dollars ($250.00), imprisonment for a period of not more than ten (10) days, or both, and at the discretion of the court the permit and all rights and privileges inherent therein may be forfeited.~~ Upon conviction for a violation of 26-1205 through 26-1212, the permit required by 26-1205 through 26-1212 is revoked and the privilege to purchase a permit is suspended for 16 months ANY PERSON VIOLATING THE PROVISIONS OF THIS ACT SHALL, UPON CONVICTION, BE PUNISHED AS PROVIDED IN 26-324, AND AT THE DISCRETION OF THE COURT THE PERMIT AND ALL RIGHTS AND PRIVILEGES INHERENT THEREIN MAY BE FORFEITED.

(2) Any animals being kept in violation of any section of this act may be confiscated or ordered disposed of at the discretion of the ~~state fish and game~~ director. The permittee may appeal to the commission within ~~twenty (20)~~ days of the date of the order to confiscate and the commission shall hold a hearing on such an appeal and the decision of the commission shall be final."

~~Section 6. There is a new R.C.M. section that reads as follows:~~

~~Cancellation and suspension of license and privileges.~~

~~(1) For purposes of this section and [sections 8, 9, and 10 of this act], the term "license" means any license, certificate, stamp, card, or permit issued by the department except outfitter's, guide's, and taxidermists' licenses, the cancellation and suspension of which is provided for in 26-919 and 26-920.~~

~~(2) The commission shall revoke a license and suspend, for a period of 16 months, the privilege of purchasing any license and the benefits, rights, and privileges conferred by any license if the holder:~~

~~(a) has been convicted of causing a forest fire;~~

~~(b) has been convicted of fraudulent purchase of any license;~~

~~(c) has caused the death of another person, though not in a criminal manner, while hunting;~~

~~(d) has illegally taken a deer within the boundaries of a city or town as prohibited in 26-315; or~~

~~(e) has been convicted of violations of the fish and game laws of any state so as to have accumulated 10 or more points within any consecutive 5-year period, as indicated in the table set forth in [section 8].~~

~~Section 7. There is a new R.C.M. section that reads as follows:~~

~~Point system. For the purpose of suspending a license as provided in [section 7], points shall be assessed as~~

follows:

(1) hunting, fishing, or trapping without a proper and valid license ..... 10 points

(2) false statement made in connection with the purchase of any license issued under this title ..... 10 points

(3) hunting migratory waterfowl without a valid federal duck stamp in possession ..... 6 points

(4) illegal transfer, sale, gift, loan, or assignment of any license issued under this title ..... 6 points

(5) alteration of any license issued under this title ..... 10 points

(6) shooting from, upon, or across a public road ..... 10 points

(7) hunting or fishing in a closed or improper area ..... 6 points

(8) hunting, fishing, or trapping on private property without permission of the owner ..... 3 points

(9) hunting before or after hours ..... 3 points

(10) use of an aircraft or a motor vehicle to take, kill, capture, wound, injure, or harass wildlife ..... 10 points

(11) fishing with an unattended rod ..... 3 points

(12) fishing with more than one rod ..... 3 points

(13) hunting with an illegal weapon or unlawful method of hunting ..... 4 points

(14) use of unlawful devices in hunting small game or

in fishing ..... 10 points

(15) use of unlawful devices in hunting big game ..... 10 points

(16) illegal possession of big game ..... 12 points

(17) illegal possession of small game or fish ..... 10 points

(18) failure to tag big game ..... 8 points

(19) failure to have evidence of sex accompanied with wildlife, when necessary ..... 6 points

(20) waste of fish on which a bag or possession limit has been set by the commission ..... 6 points

(21) waste of game meat ..... 10 points

(22) hunting during a closed season ..... 6 points

(23) refusing to produce a license or permit for inspection ..... 10 points

(24) failure to wear hunter orange garments when required by law ..... 10 points

(25) failure to stop at a check station ..... 10 points

(26) building a fire in a prohibited area ..... 6 points

(27) illegal possession of bald or golden eagle ..... 12 points

(28) illegal possession of raptors other than a bald or golden eagle ..... 10 points

(29) illegal possession of wildlife listed as endangered ..... 10 points

~~(30) failure to notify department of acquisition, loss, death, release, or transfer of raptor ..... 6 points~~

~~(31) transporting a raptor out of the state without a valid permit ..... 10 points~~

~~(32) acting as an outfitter or guide without a proper and valid license under 26-916 ..... 18 points~~

~~Section 8. There is a new R.C.M. section that reads as follows:~~

~~Multiple violations -- notice to license agents -- renewal. (1) For more than one violation of any offense set forth in [section 8], the commission, in its discretion, shall:~~

~~(a) for a second offense, assess twice the number of points listed for the violation;~~

~~(b) for a third or subsequent offense, assess 4 times the number of points listed for the offense.~~

~~(2) A suspension of privilege under [section 7] shall be for a period not to exceed 3 years, and any person whose privilege to purchase any license has been suspended is not entitled to purchase any license issued by the department and may not apply for a renewal, reissue, duplicate, or new license until the suspension has expired.~~

~~(3) Upon suspension, the commission shall give notice of the suspension to the person whose privilege has been suspended by registered or certified mail addressed to the~~

~~last known address of such person and shall further give written notice to those individuals designated by the commission to act as license agents of the fact of such suspension and the identity of the person whose privilege has been suspended.~~

~~(4) If any person whose license has been cancelled or whose privilege to purchase any license has been suspended as provided in [section 7] is convicted of exercising or attempting to exercise the benefits conferred by the license during the period of cancellation or suspension, the commission shall renew or extend the period of cancellation or suspension for an additional period of 3 years from the date of conviction.~~

~~(5) For the purposes of license or privilege revocation or suspension, the payment of a penalty assessment under 26-324 is a conviction of the offense for which the penalty assessment was paid.~~

~~Section 10. There is a new R.C.M. section that reads as follows:~~

~~Appeal of revocation or suspension of license or privileges. A person whose license or privilege is suspended or revoked may appeal to the district court of the county in which he resides or of Lewis and Clark County for relief.~~

SECTION 6. SECTION 95-302, R.C.M. 1947, IS AMENDED TO

READ AS FOLLOWS:

"95-302. Jurisdiction of the justice of the peace courts. The justices' courts have:

(a) Jurisdiction of all misdemeanors punishable by a fine not exceeding ~~five--hundred--dollars--($500.00)~~ or imprisonment not exceeding ~~six-(6)~~ months, or both such fine and imprisonment, and of all violations of fish and game statutes punishable by a fine of not more than $1,000 or imprisonment for not more than 6 months, or both; excluding jurisdiction in cases commenced under the Montana Dangerous Drug Act except to act as examining and committing courts and to conduct preliminary hearings as provided in subsection (c).

(b) Concurrent jurisdiction, with district courts, of all misdemeanors punishable by a fine only, not exceeding ~~fifteen-hundred-dollars-($1,500.00)~~; and

(c) Jurisdiction to act as examining and committing courts and for such purpose to conduct preliminary hearings."

-End-